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PROPOSED RULES

ADOPTED RULES

EDITOR'S NOTE: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000
Issue 29 - July 14, 2000: Data Through June 30, 2000
Issue 42 - October 13, 2000: Data Through September 30, 2000
Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)

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ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Day Care Information Line

2) Code Citation: 89 Ill. Adm. Code 378

3) Section Numbers: Proposed Actions
378.30 Amend

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 378 as follows:

In Section 378.30 the Department is adding the following to the list of information that will be provided by the Day Care Information Line:

pending revocations,
administrative orders of closure, and
whether the facility is under a protective plan.

This Section is also being amended to remove the limitation on reporting substantiated complaints and Department staff findings of licensing violations to the preceding twelve months. Under the amended rule, the Department will report all substantiated complaints and licensing violations since January 1, 1999.

6) Will this proposed amendment replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
(217) 524-1983

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects day care centers, day care homes and group day care homes licensed by the Department.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of this rulemaking is identical to the text of the emergency rulemaking published in this issue of the *Illinois Register* on page 2178.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Admitted Assets

2) Code Citation: 50 Ill. Adm. Code 945

3)

Section Numbers:	Proposed Action:
945.10	New Section
945.20	New Section
945.30	New Section
945.40	New Section
945.50	New Section

4) Statutory Authority: Implementing and authorized by Sections 136 and 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401] and Sections 1-3 and 2-7 of the Health Maintenance Organization Act [215 ILCS 125/1-3 and 2-7] (See P.A. 91-549, effective August 14, 1999).

5) A Complete Description of the Subjects and Issues Involved: The rule concerns the definition of "admitted assets" as previously used in the Illinois Insurance Code and Health Maintenance Organization Act. The language being adopted is the language which was prematurely stricken by P.A. 91-549.

6) Will this proposed Rule replace an emergency rule currently in effect? Yes

7) Does this Rule contain an automatic repeal date? No

8) Does this proposed Rule contain incorporations by reference? Yes. Please see Section 945.40(f) of this Part.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8560

or

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 557-1396

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF INSURANCE

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A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Please review rule provisions.

C) Types of professional skills necessary for compliance: Accounting

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the Department did not anticipate the need to prepare administrative standards to implement P.A. 91-549.

The full text of the Proposed Rules is identical to the Emergency Rule being published in this issue of the *Illinois Register* on page: 2482

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

1) Heading of the Part: Financial Assurance Requirements

2) Code Citation: 32 Ill. Adm. Code 326

3)

Section Number:	Proposed Action:
326.10	New Section
326.20	New Section
326.30	New Section
326.40	New Section
326.50	New Section
326.60	New Section
326.70	New Section
326.80	New Section
326.90	New Section
326.100	New Section
326.110	New Section
326.120	New Section
326.130	New Section
326.140	New Section
326.150	New Section
326.160	New Section
326.170	New Section
326.180	New Section
326.190	New Section
Appendix A	New Section
Appendix B	New Section
Appendix C	New Section
Appendix D	New Section
Appendix E	New Section
Appendix F	New Section

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this rulemaking to streamline the licensing requirements for radioactive materials that were contained in 32 Ill. Adm. Code 330. This new Part describes procedures and requirements for establishment of financial assurance to ensure licensees will have funds available to properly decontaminate facilities and dispose of radioactive material.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

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9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations affected: The Department believes that this rule may affect small businesses and not for profit corporations licensed to use radioactive material. The Department does not believe these rules will have any direct impact on small municipalities as defined in Section 1-80 of the IAPA.

B) Reporting, bookkeeping or other procedures required for compliance: Reporting and other procedures required for compliance with this Part are detailed in Sections 326.60, 70, 90 and 130 of this Part.

C) Types of professional skills necessary for compliance: There are no professional skills necessary for compliance with this rule.

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 326
FINANCIAL ASSURANCE REQUIREMENTS

Section

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

Section 326.10 Purpose and Scope

This Part prescribes financial assurance requirements to ensure that specific and general licensees will have sufficient funds to reclaim properties. This Part identifies which licensees must file financial assurance arrangements and describes arrangements acceptable to the Department. This Part is not

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applicable to licensees subject to 32 Ill. Adm. Code 332 that have financial assurance arrangements on file with the Department.
AGENCY NOTE: Throughout this Part, the use of the term "licensee" includes applicants for licensure and existing licensees.

Section 326.20 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

Section 326.30 General Provisions

Unless specifically exempted in Sections 326.50, 326.70(a) or 326.70(b) of this Part, each general and specific licensee identified in Sections 326.60 and 326.70(c) of this Part shall provide satisfactory financial assurance arrangements to ensure the protection of health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements of the Radiation Protection Act of 1990 (the Act) [420 ILCS 40] or 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Determination of satisfactory financial assurance arrangements shall be subject to the conditions specified in this Part.
AGENCY NOTE: As used in this Part, the terms "chief executive officer" and "chief financial officer" include other persons with equivalent titles, such as "president", "administrator" or "fiscal officer".

Section 326.40 Definitions

As used in this Part, the following definitions apply:

"Anniversary date" means the last day of the month for each year the license is in effect, which corresponds to the last day of the month in which the license expires.
AGENCY NOTE: For purposes of this Part, the 28th will be considered the last day of the month of February.

"Category III irradiator" means a gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), the sealed source is shielded at all times, and human access to the sealed source and the volume undergoing irradiation is physically restricted in its design configuration and proper mode of use.

"Category IV irradiator" means a controlled human access gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), is fully shielded when not in use and is

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exposed within a radiation volume that is maintained inaccessible during use by an entry control system.

"Cost estimate" means a licensee's evaluation of the costs associated with reclamation of a facility or site. Cost estimates are subject to Department review and approval.

"Educational institution" means a non-profit organization which has as its primary purpose the advancement of knowledge in one or more specific fields and which is accredited by the North Central Association Commission on Schools or the North Central Association Commission on Institutions of Higher Education.

"Financial assurance arrangement" means a method of guaranteeing that reclamation costs will be paid. A financial assurance arrangement consists of a surety bond, an irrevocable letter of credit, a certificate of deposit, a self-guarantee, a parent company guarantee, a combination of such arrangements or other financial arrangements approved in writing by the Department.

"General licensee" means a person who possesses a generally licensed device as defined in this Section.

"Generally licensed devices" means gauges containing sealed sources equal to or greater than 37 MBq (1 mCi) of radioactive material possessed by persons licensed pursuant to 32 Ill. Adm. Code 330.220(b).
AGENCY NOTE: Although general licensees may be required to provide information to the Department, only general licensees possessing the types of devices defined in this Section are required to address financial assurance requirements specified in this Part.

"Major possessor" means a person who is licensed to use, possess or store radioactive material with half-lives greater than 275 days, as either sealed or unsealed sources in quantities exceeding the quantities specified in Appendix A of this Part.

"Reclamation" means decontamination of facilities and sites and disposal of radioactive material such that the property is returned to a state that no longer presents a radiological health or safety hazard to persons, or a threat to the environment.
AGENCY NOTE: For purposes of this Part, the term "reclamation" includes, but is not limited to, those activities necessary to decommission the licensed facility to allow termination of the license.

Section 326.50 Exemptions

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a) Radioactive material possessed or used by the following persons is not subject to this Part:
   1) All State, local or other government entities;
      AGENCY NOTE: For purposes of this Section, "government entities" shall not include federal or State contractors, or non-governmental recipients of government funds.
   2) Educational institutions;
   3) Licensees not authorized to possess or use radioactive material in Illinois;
   4) Licensees with no permanent storage or use facilities in Illinois; or
   5) Licensees using radioactive material within Illinois under reciprocal recognition of an out-of-state license as specified in 32 Ill. Adm. Code 330.900.

b) Radioactive material in the following forms is not subject to this Part:
   1) Radioactive material for use in gas chromatographs, benchtop analytical laboratory instruments, x-ray fluorescence analyzers, static elimination devices and self-luminous exit signs;
   2) Sealed sources for exchange into a device, provided that the sources do not concurrently remain in the licensee's possession for more than 30 days;
   3) Radioactive noble gasses;
   4) Depleted uranium prefabricated as shielding;
   5) Radioactive material with half-lives of 30 days or less;
   6) Radioactive material with atomic numbers less than or equal to 82 in the form of sealed sources, in quantities less than or equal to 37 MBq (1 mCi) per source, not to exceed 185 MBq (5 mCi) total; or
   7) Radioactive material with atomic numbers greater than or equal to 83 in the form of sealed sources, in quantities less than or equal to 185 kBq (50 uCi) per source, not to exceed 37 MBq (1 mCi) total.

c) Except for low-level radioactive waste licensees as described in Section 326.60 of this Part, radioactive material with half-lives greater than 30 days, but less than or equal to 275 days, in the following forms, is not subject to this Part:
   1) Radioactive material in forms other than noble gasses or sealed sources, in quantities not to exceed 37 GBq (1 Ci) per nuclide; and
   2) Radioactive material in the form of a sealed source.

d) Except for licensees specified in Sections 326.60 and 326.70 of this Part, specific or general licensees that possess or use radioactive material with half-lives greater than 275 days, in the form of sealed sources in quantities less than 37 GBq (1 Ci) per source, but not exceeding the applicable quantities specified in Appendix A of this Part, are not subject to this Part.

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Section 326.60 Low-Level Radioactive Waste Licensees

Waste handling licensees as defined in 32 Ill. Adm. Code 310.20, such as low-level radioactive waste treatment or disposal facilities, or centralized low-level radioactive waste storage licensees, shall submit a reclamation plan and a cost estimate for approval by the Department as described in Section 326.80 of this Part and secure a financial assurance arrangement for the amount specified in the Department-approved cost estimate. Such licensees shall ensure the cost estimate encompasses all radioactive material authorized by the license, except for radioactive material specifically exempted in Section 326.50(b) of this Part. The exemptions specified in Section 326.50(c) and (d) of this Part are not applicable to the licensees described in this Section.

Section 326.70 Financial Assurance Amounts

Unless specified in Section 326.60 of this Part, the following specific and general licensees are required to secure a financial assurance arrangement in the amounts described in this Section:

a) Unless specified in subsection (b) of this Section, for specific or general licensees that possess or use radioactive material in the form of sealed sources in quantities greater than or equal to 37 GBq (1 Ci) per source, but not exceeding the quantities specified in Appendix F of this Part, the minimum amount is $25,000.

b) The following licensees shall submit a reclamation plan as described in Section 326.80 of this Part, and a cost estimate for approval by the Department. When approved, the licensee shall secure a financial assurance arrangement in the amount specified on the Department-approved cost estimate:

1) Major possessors as defined in Section 326.40 of this Part;

2) Persons who possess radioactive material in forms other than noble gasses or sealed sources with half-lives greater than 30 days, but less than or equal to 275 days, in quantities exceeding 37 GBq (1 Ci) per nuclide;

3) Persons who possess source material tailings or sludge;

4) Category III or IV irradiators;

5) Persons who use particle accelerators to manufacture radionuclides for distribution to other licensees or customers; and

6) Facilities owned or operated by the U.S. Department of Energy (DOE) or its contractors or subcontractors, if subject to the regulatory control of the Department. Contractors or subcontractors of DOE who may perform work that is not a direct function of the DOE operation are subject to other financial assurance requirements as provided for in this Part.

AGENCY NOTE: Licensees subject to 32 Ill. Adm. Code 332 are required to meet the financial assurance requirements specified in 32 Ill. Adm. Code 332.260, and therefore are not subject to this Part.

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Section 326.80 Cost Estimates and Reclamation Plans

Licensees required to perform cost estimates, as described in Sections 326.60 and 326.70 of this Part, shall submit reclamation plans and cost estimates to the Department for approval prior to securing financial assurance arrangements. The Department shall allow material described in Section 326.50(b) of this Part as exempt to be excluded from financial assurance estimates. The plan shall describe reclamation actions to be taken in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. The Department shall consider, but is not limited to, the following in approving the reclamation plan and cost estimates, and determining the financial assurance requirements for each individual licensee:

a) The probable extent of contamination resulting from the use or possession of radioactive material as authorized by a radioactive material license at the facility or site, and the probable cost of removal of such contamination in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. This consideration shall encompass probable contaminating events associated with the licensee's methods or modes of operation and shall be based on factors such as quantities, half-lives, radiation hazards and toxicities, and chemical and physical forms;

b) The extent of possible offsite property damage caused by operation of the facility or site that is to be reclaimed;

c) The cost and method of removal and disposal of radioactive material and sources of radiation which are or would be generated, stored, processed, or otherwise present at the facility or site; and

d) The costs and methods involved in reclamation of the site or the property on which the facility is located and all other properties contaminated by radioactive material authorized by the license.

Section 326.90 Financial Assurance Arrangements

The following rules shall apply to applicants for specific licenses and general and specific licensees required to secure and file financial assurance arrangements with the Department:

a) The licensee or applicant shall choose from the financial assurance arrangements specified in Sections 326.100 through 326.160 of this Part.

b) The wording of the financial assurance arrangement shall contain the provisions described in this Part, and may use wording identical to the wording of the corresponding arrangement in Appendices B through F of this Part. No additional restrictions may be placed on any financial assurance arrangement filed with the Department.

c) The financial assurance arrangements shall be provided to and filed with the Department in a dollar amount greater than or equal to either the amount specified in Section 326.70(a) of this Part or the amount specified in a cost estimate approved by the Department.

1) The financial assurance arrangements may be reviewed annually by

the Department. The Department may require the licensee to adjust the value of the financial assurance arrangements to recognize any increases or decreases resulting from inflation or deflation, changes in engineering plans, activities performed and any other condition affecting costs for reclamation. Such changes will be required to ensure that sufficient financial assurance amounts are provided and retained to cover cost of reclamation.

2) When a change in activities not requiring a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Department, the licensee shall notify the Department within 60 days after the increase. This notification shall include submission of revised cost estimates and reclamation plans for Department review and approval. Upon approval of the revised cost estimates, the licensee may be required to file additional financial assurance arrangements at least equal to this increase.

3) When a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Department, the amendment shall be held until the required financial assurance arrangements are established.

4) When the current reclamation cost estimate decreases, upon the written request of the licensee, and provided that the decrease is verified by the Department, the Department shall authorize the reduction in the amount of financial assurance required for the facility to the amount of the approved amended reclamation cost estimate. Upon such occurrence, the Department shall allow the licensee to substitute new arrangements in the reduced amount for the arrangements on file.

5) For specific licensees, the term of the financial assurance arrangement shall be for the period from issuance of the license until termination of the license by the Department in accordance with 32 Ill. Adm. Code 330.

6) For general licensees, the term of the financial assurance arrangement shall be for the period from approval of the financial assurance arrangement until all devices covered by the instrument have been properly transferred or disposed of.

7) Upon termination of the license, the Department will release all financial assurance arrangements not drawn upon pursuant to Section 326.180 of this Part.

d) Use of Multiple Financial Assurance Arrangements. The licensee or applicant may utilize more than one financial assurance arrangement per facility to satisfy the requirement specified in this Section. Unless agreed otherwise by the Department and the licensee, financial assurance arrangements may be drawn upon in any order determined by the Department. The arrangements shall be as specified in Appendix B of this Part, and the sum value of all arrangements shall be in an amount greater than or equal to either the amount specified in Section 326.70(a) of this Part, or the amount specified in a cost estimate approved by the Department.

e) Use of a Financial Assurance Arrangement for Multiple Facilities or Multiple Licensees at a Facility. The licensee or applicant may use a financial assurance arrangement specified in Appendix B of this Part to meet the requirements of this Section for more than one license, or more than one facility owned or operated in Illinois. The arrangement submitted to the Department shall include a list indicating, for each facility, the registration numbers, license numbers, names, addresses and amounts of funds for reclamation assured by the arrangement. The amount of funds available through the financial assurance arrangement shall not be less than the aggregate total of the funds that would be available if separate arrangement had been filed and maintained for each license or facility. If more than one license exists for a facility, the amount of funds for each license shall be specified.

f) Any applicant or licensee who fulfills the requirements of this Section by obtaining a surety bond or letter of credit will be deemed to be without the required financial assurance arrangement in the event of commencement of bankruptcy proceedings involving the issuing institution, or a suspension, termination, or revocation of the authority of the institution issuing the surety bond or letter of credit to issue such instruments. The applicant or licensee shall establish other Department-approved financial assurance arrangements within 30 days after such an event.

Section 326.100 Surety Bond as a Financial Assurance Arrangement

If a licensee elects to satisfy the requirement of Section 326.90 of this Part by securing a surety bond, that bond shall conform to the following requirements:

a) The surety company issuing the bond shall be among those listed as acceptable sureties or reinsurers on federal bonds in Circular 570 of the U.S. Department of Treasury, entitled "Surety Companies Acceptable On Federal Bonds", revised as of July 1, 1999.

b) The wording of the surety bond shall contain the substantive provisions specified in Appendix B of this Part. Additional conditions may be agreed to between the licensee and the surety company so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Department.

c) The surety bond shall guarantee that:

1) Funds will be available, whenever required by the Department, in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330;

2) The surety waives notification of amendments to licenses, applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on

the bond; and

3) The licensee shall provide alternative financial assurance arrangements as specified in Section 326.170 of this Part prior to cancellation or termination of the bond.

d) Under the terms of the bond, the surety shall become liable on the bond obligation when the licensee fails to perform as guaranteed by the bond. Upon a determination by the Department that the licensee has failed to so perform, the surety shall perform reclaiming to the satisfaction of the State as guaranteed by the bond or shall pay the amount of the penal sum to the Department.

e) The penal sum of the bond shall be in an amount, after considering other financial assurance arrangements established in accordance with this Part, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) The surety may cancel the bond by sending notice of cancellation by certified mail, return receipt requested, to the licensee and to the Department. Cancellation shall not occur, however, during the 180 days beginning on the date after receipt of the notice of cancellation by both the licensee and the Department, as evidenced by the return receipts. During such period, the licensee shall obtain replacement financial assurance as provided in Section 326.170 of this Part. Upon notification by the Department that the licensee has failed to obtain replacement financial assurance approved by the Department, the surety shall pay the amount of the penal sum to the Department.

g) The surety shall not be liable for the deficiency in the performance of reclaiming after the Department has determined satisfactory reclaiming has occurred.

h) The licensee may terminate the bond by sending written notice to the surety, provided, however, that no such notice shall become effective until the surety receives written authorization from the Department for the termination of the bond. The Department shall not authorize termination until the licensee has either provided replacement financial assurance arrangements in accordance with Section 326.170 of this Part or the Department has determined satisfactory reclaiming has occurred.

i) The bond shall be accompanied by a letter from the licensee referring to the bond by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the surety bond.

Section 326.110 Letter of Credit as a Financial Assurance Arrangement

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing an irrevocable standby letter of credit, the irrevocable standby letter of credit supporting this guarantee shall conform to the following requirements:

a) The institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or Illinois agency.

b) The wording of the letter of credit shall contain the substantive provisions specified in Appendix C of this Part. Additional conditions may be agreed to between the licensee and the issuing institution so long as no requirement of this Part nor required provision is avoided or altered and no additional requirements are placed on the Department.

c) The letter of credit shall be accompanied by a letter from the licensee referring to the letter of credit by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilityies and the amount of funds for each license assured for reclaiming of the facilities by the letter of credit.

d) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The expiration date of the letter of credit shall be automatically extended for a period of at least 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Department by certified mail, return receipt requested, of a decision not to extend the expiration date. The 180 days will begin on the date when both the licensee and the Department have received the notice, as evidenced by the return receipts. Unless released by the Department, the Department may draw upon this letter of credit if a new letter of credit or other financial assurance arrangements, approved in writing by the Department, is not furnished 60 days prior to the expiration date. The Department may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the Department.

e) The letter of credit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) The Director may draw on the letter of credit as provided in Section 326.180 of this Part. The Director may also draw on the letter of credit if the licensee does not establish alternative financial assurance arrangements as specified in Section 326.170 of this Part.

Section 326.120 Certificate of Deposit as a Financial Assurance Arrangement

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing a certificate of deposit, the certificate of deposit supporting this guarantee shall conform to the following requirements:

a) The institution issuing the certificate of deposit shall be an entity

that has the authority to issue certificates of deposit and whose certificate of deposit operations are regulated and examined by a federal or State agency.

b) The wording of the certificate of deposit shall contain the substantive provisions specified in Appendix D of this Part. Additional provisions may be included so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Department.

c) The certificate of deposit shall be accompanied by a letter from the licensee referring to the certificate of deposit by number, issuing institution and date and providing the following information:

1) The letter shall reference the radioactive material license numbers, names and addresses of the facilities and the amount of funds assured for reclaiming of the facilities by the certificate of deposit; and

2) The letter shall state that the licensee conveys, transfers, pledges, hypothecates and grants a security interest in and to the certificate to the Department.

d) The certificate of deposit shall be issued for a period of at least 1 year. The certificate of deposit shall provide that the certificate will be automatically renewed for a period of 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Department by certified mail, return receipt requested, of a decision not to renew the certificate. The 180 days will begin on the date when both the licensee and the Department have received notice, as evidenced by the return receipts. Unless the Department provides written notice to the issuing institution that the licensee has provided substitute financial assurance acceptable to the Department as specified in Section 326.170 of this Part, the issuing institution shall, upon maturity of a certificate of deposit that is not being renewed, pay to the Department the amount deposited under the certificate of deposit. The Department may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any extension, the Director may draw on the certificate of deposit if the licensee has failed to provide alternative financial assurance arrangements as specified in Section 326.170 of this Part and obtain written approval of such arrangements from the Department.

e) The certificate of deposit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) Interest accrued on a certificate of deposit shall be paid directly to the licensee and shall not automatically increase the amount of any certificate of deposit on file with the Department.

Section 326.130 Self-Guarantee as a Financial Assurance Arrangement

a) Except as provided in subsection (b) of this Section, each licensee electing to use self-guarantee as a financial assurance arrangement shall be subject to the following requirements:

1) The company shall not have a parent company holding majority control of its voting stock.

2) The company shall have at least one class of equity securities registered under the Securities Exchange Act of 1934.

3) The company shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.140 of this Part. At a minimum, documentation shall include the following:

A) A self-guarantee as described in Appendix E of this Part, signed by the chief executive officer of the company;

B) A letter, as described in Appendix E of this Part, from the company's chief executive officer;

C) A letter, as described in Appendix E of this Part, from the company's chief financial officer demonstrating that the company passes the financial tests specified in Section 326.140 of this Part;

D) The company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and

E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

4) The company's independent certified public accountant shall have compared the data used by the company in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the company shall inform the Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

5) For commercial companies that issue bonds, the licensee shall provide notice in writing to the Department within 20 days after publication of a change by the rating service if, at any time, the company's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's. If the company's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirement of Section 326.140(a) of this Part. The licensee shall secure replacement

financial assurance arrangements in accordance with Section 326.170 of this Part.

6) After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and provide the documents specified in subsection (a)(3) of this Section.

7) If the licensee no longer meets the requirements of the applicable financial tests in Section 326.140 of this Part, the licensee shall send notice to the Department of its intent to establish alternative financial assurance. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the licensee no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.

8) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Department. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted and approved by the Department or the Department confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

9) The guarantee and financial test provisions specified in Section 326.140 of this Part shall remain in effect until the Department has terminated the license, or until a replacement financial assurance arrangement is accepted by the Department in accordance with Section 326.170 of this Part.

b) For hospitals, in lieu of the requirements in subsection (a) of this Section, a hospital seeking to use self-guarantee as a financial assurance arrangement may satisfy the following requirements:

1) The hospital shall submit a financial test, independently audited financial statements, and other documents demonstrating that it passes the financial tests prescribed in Section 326.140(c) of this Part. At a minimum, documentation shall include the following:

A) A self-guarantee, as described in Appendix E, signed by the chief executive officer of the hospital;

B) A letter, as described in Appendix E, from the hospital's chief executive officer;

C) A letter, as described in Appendix E, from the hospital's chief financial officer, demonstrating that the hospital passes the financial tests specified in Section 326.140(b) of this Part;

D) The hospital's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements;

E) An independent auditor's special report, as described in

Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with the corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

2) The hospital's independent certified public accountant shall have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

3) For hospitals that issue bonds, if at any time the hospital's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing to the Department within 20 days after publication of a change by the rating service. If the hospital's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section 326.140(b) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.

4) After the initial financial test, the hospital shall, within 90 days after the close of each succeeding fiscal year, repeat passage of the test and provide the documents specified in subsection (b)(1) of this Section.

5) If the hospital no longer meets the requirements of the applicable financial tests in Section 326.140(c) of this Part, the licensee shall send notice to the Department of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the license no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.

6) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Department. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Department confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

7) The guarantee and financial test provisions specified in Section 326.140(b) of this Part shall remain in effect until the Department has terminated the license or until a replacement financial assurance arrangement is accepted by the Department in accordance with Section 326.170 of this Part.

Section 326.140 Financial Tests for Self-Guarantee

A licensee may provide assurance of the availability of funds for reclaiming based on furnishing its own guarantee that funds will be available for reclaiming costs, provided that the licensee can demonstrate that it meets the applicable financial tests identified in this Section. For commercial corporations that issue bonds, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (a) of this Section. For commercial corporations that do not issue bonds, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (b) of this Section. For hospitals, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (c) of this Section. A guarantee by the licensee may not be used in any situation where the licensee has a parent company holding majority control of the voting stock of the company.

a) For commercial companies that issue bonds, to pass the financial test, the company shall demonstrate it meets all of the following criteria:
   1) Tangible net worth at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).
   2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).
   3) A current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA or A as issued by Standard and Poor's, or Aaa, Aa or A as issued by Moody's.

b) For commercial companies that do not issue bonds, to pass the financial test, the company shall demonstrate it meets all of the following criteria:
   1) Tangible net worth greater than $10 million, or at least 10 times the total current reclaiming cost estimate, whichever is greater, for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).
   2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).
   3) The (sum of net income plus depreciation, depletion and amortization) divided by total liabilities shall be greater than 0.15 and total liabilities divided by net worth shall be less than 1.5.

c) For hospitals to pass the financial test, a hospital shall meet either the criteria in subsection (c)(1) or (2) of this Section:
   1) For hospitals that issue bonds, a current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA or A as issued by Standard and Poor's, or Aaa, Aa or A as issued by Moody's.
   2) For hospitals that do not issue bonds, all of the following tests shall be met:
      A) (Total revenues less total expenditures) divided by total revenues shall be equal to or greater than 0.04.
      B) Long term debt divided by net fixed assets shall be less than or equal to 0.67.
      C) (Current assets and depreciation fund) divided by current liabilities shall be equal to or greater than 2.55.
      D) Operating revenues shall be at least 100 times the total current reclaiming cost estimate for all reclaiming activities for which the hospital is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).

Section 326.150 Parent Company Guarantee as a Financial Assurance Arrangement

Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall be subject to the following requirements:

a) The guarantor shall be a direct parent holding more than 50 percent of the voting stock of the licensee. A company shall not serve as a guarantor to a division of the company.

b) Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.160 of this Part. At a minimum, documentation shall include all of the following:
   1) A parent company guarantee agreement, as described in subsection (b)(5) of Appendix F of this Part, signed by the chief executive officer of the guarantor, that states in part that, if the licensee fails to conduct required reclamation activities, the parent company shall either:
      A) Conduct the required activities, or
      B) Pay the guaranteed amount to the Department as directed by the Director;
   2) A copy of corporate bylaws, a letter, or other evidence

indicating that the guarantor is the parent company of the licensee and that the guarantor has majority control of the licensee's voting stock;

3) A letter, as described in subsection (a) of Appendix F of this Part, from the parent company's chief executive officer;

4) A letter from the parent company's chief financial officer, as described in subsection (a) of Appendix F of this Part, demonstrating that the company passes the financial tests specified in Section 326.160 of this Part;

5) The parent company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and

6) An independent auditor's special report, as described in subsection (d) of Appendix F of this Part, stating that the certified public accountant has compared the amounts specified in the letter from the chief financial officer with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which shall be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the parent company no longer passes the test.

d) After the initial financial test, the parent company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and shall provide the documentation specified in subsection (b) of this Section.

e) If the licensee's parent company no longer meets the requirements of the applicable financial tests in Section 326.160 of this Part, the licensee shall send notice to the Department of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the parent company no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.

f) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Department. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Department confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

g) The guarantee and financial test provisions specified in Section 326.160 of this Part shall remain in effect until the Department has terminated the license, or until a replacement financial assurance arrangement is accepted by the Department in accordance with Section 326.170 of this Part.

Section 326.160 Financial Tests for Parent Company Guarantee

A licensee may provide assurance of the availability of funds for reclaiming based on obtaining a parent company guarantee that funds will be available for reclaiming costs, provided that the parent company can demonstrate that it meets the applicable financial tests identified in this Section. To pass the financial test, the parent company shall demonstrate it meets the criteria specified in either subsection (a) or (b) of this Section.

a) The parent company shall have:

1) Two of the following three ratios:

A) A ratio of total liabilities to net worth less than 2.0;

B) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1;

C) A ratio of current assets to current liabilities greater than 1.5;

2) Net working capital and tangible net worth, each at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA);

3) Tangible net worth of at least $10 million; and

4) Assets located in the United States amounting to at least 90 percent of total assets or at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).

b) Or the parent company shall have:

1) A current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's, or Aaa, Aa, A or Baa as issued by Moody's;

2) Tangible net worth of at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA);

3) Tangible net worth of at least $10 million; and

4) Assets located in the United States amounting to at least 90 percent of total assets or at least 6 times the total current reclamation cost estimate for all decommissioning activities for

which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., EPA).

Section 326.170 Modification or Replacement of Financial Assurance Arrangements

The licensee shall not substitute, modify or replace financial assurance arrangements filed with the Department without prior approval by the Department.

a) Substitute or replacement financial assurance arrangements shall meet the requirements of this Part.

b) Proposed modifications to financial assurance arrangements already filed with the Department shall be submitted in writing to the Department for approval.

c) Existing financial assurance arrangements shall not be released by the Department until the proposed modifications or replacement financial assurance arrangements have been approved and filed in accordance with Section 326.90 of this Part.

Section 326.180 Drawing on Financial Assurance Arrangements

If a licensee fails to perform required reclamation activities or fails to obtain substitute or replacement financial assurance arrangements approved by the Department, the Department will exercise its rights under the applicable financial assurance arrangement. Notice of the Department's action shall be provided to the licensee at the address on file with the Department.

Section 326.190 Implementation

The following procedures shall apply in implementing this Part:

a) No new specific licenses shall be issued by the Department after the effective date of this Part, unless all financial assurance requirements have been addressed as specified in this Part.

b) All specific licensees with anniversary dates on and between 1 and 120 days after the effective date of this Part shall submit, prior to 120 days after the effective date of this Part, the amount of financial assurance specified in Section 326.70 of this Part, or a reclamation plan and cost estimate for approval by the Department, or updates to financial assurance arrangements currently on file.

c) All specific licensees with anniversary dates between 120 days and 365 days after the effective date of this Part shall submit, prior to their anniversary date, the amount of financial assurance specified in Section 326.70 of this Part, or a reclamation plan and cost estimate for approval by the Department, or updates to financial assurance arrangements currently on file.

d) All specific licensees shall review their financial assurance arrangements at the time of renewal or when there is a change to the

radiation safety program that would impact the amount of financial assurance on file with the Department.

e) Financial assurance arrangements for generally licensed devices shall be due within 90 days from the date of notification by the Department.

Section 326.APPENDIX A Quantities of Material for Major Possessor Determination

Radionuclide	Abbrev.	UNSEALED FORMS MBq	UNSEALED FORMS mCi	SEALED SOURCES GBq	SEALED SOURCES Ci
Actinium-227	Ac-227	0.037	0.001	370	10
Aluminum-26	Al-26	370	10	37000	1000
Americium-241	Am-241	0.037	0.001	370	10
Americium-242m	Am-242m	0.037	0.001	370	10
Americium-243	Am-243	0.037	0.001	370	10
Antimony-125	Ab-125	3700	100	37000	1000
Barium-133	Ba-133	3700	100	37000	1000
Berkelium-247	Bk-247	0.037	0.001	370	10
Berkelium-249	Bk-249	3.7	0.1	37000	1000
Beryllium-10	Be-10	37	1	37000	1000
Bismuth-207	Bi-207	370	10	37000	1000
Bismuth-210m	Bi-210m	3.7	0.1	37000	1000
Cadmium-109	Cd-109	37	1	37000	1000
Cadmium-113	Cd-113	3700	100	37000	1000
Cadmium-113m	Cd-113m	3.7	0.1	37000	1000
Calcium-41	Ca-41	3700	100	37000	1000
Californium-248	Cf-248	0.37	0.01	3700	100
Californium-249	Cf-249	0.037	0.001	370	10
Californium-250	Cf-250	0.037	0.001	370	10
Californium-251	Cf-251	0.037	0.001	370	10
Californium-252	Cf-252	0.037	0.001	370	10
Carbon-14	C-14	37000	1000	37000	1000
Cerium-144	Ce-144	37	1	37000	1000
Cesium-134	Cs-134	370	10	37000	1000
Cesium-135	Cs-135	3700	100	37000	1000
Cesium-137	Cs-137	370	10	37000	1000
Chlorine-36	Cl-36	370	10	37000	1000
Cobalt-60	Co-60	37	1	37000	1000
Curium-243	Cm-243	0.037	0.001	370	10
Curium-244	Cm-244	0.037	0.001	370	10
Curium-245	Cm-245	0.037	0.001	370	10
Curium-246	Cm-246	0.037	0.001	370	10
Curium-247	Cm-247	0.037	0.001	370	10
Curium-248	Cm-248	0.037	0.001	370	10
Einsteinium-254	Es-254	0.37	0.01	3700	100
Europium-150 (34.2y)	Eu-150	37	1	37000	1000
Europium-152	Eu-152	37	1	37000	1000
Europium-154	Eu-154	37	1	37000	1000
Europium-155	Eu-155	370	10	37000	1000
Europium-157	Eu-157	3700	100	37000	1000

Gadolinium-148	Gd-148	0.037	0.001	370	10
Gadolinium-152	Gd-152	3700	100	37000	1000
Germanium-68	Ge-68	370	10	37000	1000
Hafnium-172	Hf-172	37	1	37000	1000
Hafnium-182	Hf-182	3.7	0.1	37000	1000
Hafnium-184	Hf-184	3700	100	37000	1000
Holmium-166m	Ho-166m	37	1	37000	1000
Hydrogen-3	H-3	37000	1000	37000	1000
Indium-115	In-115	3700	100	37000	1000
Iodine-129	I-129	37	1	37000	1000
Iron-55	Fe-55	3700	100	37000	1000
Iron-60	Fe-60	37	1	37000	1000
Lanthanum-137	La-137	370	10	37000	1000
Lanthanum-138	La-138	3700	100	37000	1000
Lead-202	Pb-202	370	10	37000	1000
Lead-205	Pb-205	3700	100	37000	1000
Lead-210	Pb-210	0.37	0.01	3700	100
Lutetium-173	Lu-173	370	10	37000	1000
Lutetium-174	Lu-174	370	10	37000	1000
Lutetium-176	Lu-176	3700	100	37000	1000
Manganese-53	Mn-53	37000	1000	37000	1000
Manganese-54	Mn-54	3700	100	37000	1000
Mercury-194	Hg-194	37	1	37000	1000
Molybdenum-93	Mo-93	370	10	37000	1000
Neptunium-235	Np-235	3700	100	37000	1000
Neptunium-236 (1.15x105y)	Np-236	0.037	0.001	370	10
Neptunium-237	Np-237	0.037	0.001	370	10
Nickel-59	Ni-59	3700	100	37000	1000
Nickel-63	Ni-63	3700	100	37000	1000
Niobium-93m	Nb-93m	370	10	37000	1000
Niobium-94	Nb-94	37	1	37000	1000
Osmium-194	Os-194	37	1	37000	1000
Palladium-107	Pd-107	370	10	37000	1000
Platinum-193	Pt-193	37000	1000	37000	1000
Plutonium-236	Pu-236	0.037	0.001	370	10
Plutonium-238	Pu-238	0.037	0.001	370	10
Plutonium-239	Pu-239	0.037	0.001	370	10
Plutonium-240	Pu-240	0.037	0.001	370	10
Plutonium-241	Pu-241	0.37	0.01	3700	100
Plutonium-242	Pu-242	0.037	0.001	370	10
Plutonium-244	Pu-244	0.037	0.001	370	10
Potassium-40	K-40	3700	100	37000	1000
Promethium-144	Pm-144	370	10	37000	1000
Promethium-145	Pm-145	370	10	37000	1000
Promethium-146	Pm-146	37	1	37000	1000
Promethium-147	Pm-147	370	10	37000	1000
Protactinium-231	Pa-231	0.037	0.001	370	10

Radium-226	Ra-226	3.7	0.1	37000	1000
Radium-228	Ra-228	3.7	0.1	37000	1000
Rhenium-186m	Re-186m	370	10	37000	1000
Rhenium-187	Re-187	37000	1000	37000	1000
Rhodium-101	Rh-101	370	10	37000	1000
Rhodium-102	Rh-102	370	10	37000	1000
Rubidium-87	Rb-87	3700	100	37000	1000
Ruthenium-106	Ru-106	37	1	37000	1000
Samarium-145	Sm-145	37000	100	37000	1000
Samarium-146	Sm-146	37	1	37000	1000
Samarium-147	Sm-147	3700	100	37000	1000
Samarium-151	Sm-151	370	10	37000	1000
Selenium-79	Se-79	3700	100	37000	1000
Silicon-32	Si-32	37	1	37000	1000
Sodium-22	Na-22	370	10	37000	1000
Strontium-90	Sr-90	3.7	0.1	37000	1000
Tantalum-179	Ta-179	3700	100	37000	1000
Tantalum-180m	Ta-180m	37000	1000	37000	1000
Technetium-97	Tc-97	37000	1000	37000	1000
Technetium-98	Tc-98	370	10	37000	1000
Technetium-99	Tc-99	3700	100	37000	1000
Tellurium-123	Te-123	3700	100	37000	1000
Terbium-157	Tb-157	370	10	37000	1000
Terbium-158	Tb-158	37	1	37000	1000
Thallium-204	Tl-204	3700	100	37000	1000
Thorium-228	Th-228	0.037	0.001	370	10
Thorium-229	Th-229	0.037	0.001	370	10
Thorium-230	Th-230	0.037	0.001	370	10
Thorium-232	Th-232	3700	100	37000	1000
Thulium-171	Tm-171	370	10	37000	1000
Tin-119m	Sn-119m	3700	100	37000	1000
Tin-121	Sn-121	37000	1000	37000	1000
Tin-126	Sn-126	370	10	37000	1000
Titanium-44	Ti-44	37	1	37000	1000
Uranium-232	U-232	0.037	0.001	370	10
Uranium-233	U-233	0.037	0.001	370	10
Uranium-234	U-234	0.037	0.001	370	10
Uranium-235	U-235	0.037	0.001	370	10
Uranium-236	U-236	0.037	0.001	370	10
Uranium-238	U-238	3700	100	37000	1000
Vanadium-49	V-49	37000	1000	37000	1000
Zirconium-93	Zr-93	37	1	37000	1000
Thorium-natural		3700	100	37000	1000
Uranium-natural		3700	100	37000	1000

When a combination of nuclides is involved, the limit for the combination shall be derived as follows: For each nuclide, determine the ratio between the

quantity authorized on the license and the quantity established in this Appendix A for the form of the material (sealed source or unsealed material). If the sum of the ratios for all nuclides is greater than one, then the licensee shall post financial assurance arrangements.

AGENCY NOTE: Possession of special nuclear material (Plutonium, Uranium-233 and Uranium-235) is limited to quantities not sufficient to form a critical mass as defined in 32 Ill. Adm. Code 310.20.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED RULES

Section 326.APPENDIX B Wording for Surety Bonds

A surety bond guaranteeing funds for reclamation, as specified in 32 Ill. Adm. Code 326.100, shall contain the following provisions, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

SURETY BOND

Date bond executed:

Effective date:

Principal: [legal name and business address of licensee]

Type of organization: [insert "individual," "partnership" or "corporation"]

State of incorporation:

Surety(ies): [Name(s) and business address(es)]

License number(s), name, address and reclamation cost for each facility guaranteed by this bond:

Total penal sum of bond: $_____

Surety's bond number:

KNOW ALL PERSONS BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto, are firmly bound to the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704 (hereinafter called Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under the Radiation Protection Act of 1990, as amended, to have a license in order to receive, possess, store and use radioactive material at the facility identified above; and

DEPARTMENT OF NUCLEAR SAFETY

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WHEREAS said Principal is required to provide financial assurance for reclamation as a condition of the license;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform reclamation, whenever required to do so, of each facility for which this bond guarantees funds for reclamation, to the satisfaction of the Director, Illinois Department of Nuclear Safety, in accordance with acceptable practices for protection of health and safety pursuant to all applicable laws, statutes, rules and regulations, as such laws, statutes, rules and regulations may be amended;

OR, if the Principal shall provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, and obtain the written approval of such assurance from the Illinois Department of Nuclear Safety (hereinafter called the Department), within 90 days after the date notice of cancellation is received by both the Principal and the Department from the Surety(ies), then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Department that the Principal has been found in violation of the reclamation requirements of the Department, for a facility for which this bond guarantees funds for performance of reclamation, the Surety(ies) shall pay the reclamation cost amount guaranteed for the facility to the Department as directed by the Director.

Upon notification by the Department that the Principal has failed to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 and obtain written approval of such assurance from the Department during the 120 days following receipt by both the Principal and the Director of a notice of cancellation of the bond, the Surety(ies) shall pay the amount guaranteed for the facility(ies) to the Department as directed by the Director.

The Surety(ies) hereby waive(s) notification of amendments to licenses, applicable laws, statutes, rules and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

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The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the licensee and to the Department; provided, however, that cancellation shall not occur during the 180 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Department, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Department.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this SURETY BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

PRINCIPAL

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

CORPORATE SURETY(IES)

[Name and address]

State of incorporation:

Liability limit: $_____

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

[For every co-surety, provide signature(s), corporate seal and other information in the same manner as for the Surety above.]

Bond premium: $_____

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Section 326.APPENDIX C Wording for Letters of Credit

A letter of credit, as specified in 32 Ill. Adm. Code 326.110, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Department of Nuclear Safety

Date: _____

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [licensee's name and address] up to the aggregate amount of [in words] U.S. dollars $_____, available upon presentation of:

A) Your sight draft, bearing reference to this letter of credit No. _____; and

B) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Illinois Radiation Protection Act of 1990, as amended."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 180 days before the current expiration date, we notify both you and [licensee's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. Unless released by the Department, the Department may draw upon this letter of credit if a new letter of credit or other financial assurance arrangement approved in writing by the Department is not furnished 60 days prior to the expiration date. The Department may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the Department. [Financial institution] shall give immediate notice to [licensee] and the Department of any notice received or action filed alleging (1) the insolvency or bankruptcy of [financial institution] or (2) any violations of regulatory requirements that could result in suspension or revocation of [financial institution's] charter or license to do business. The financial institution also shall give immediate notice if [financial institution], for any reason, becomes

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unable to fulfill its obligation under this letter of credit.

Whenever this letter of credit is drawn on under and in compliance with the terms of the letter of credit, we shall duly honor such draft upon its presentation to us within 30 days, and we shall pay the amount of the draft to the Department in accordance with your instructions.

Each draft must bear on its face the clause: "Drawn under Letter of Credit No. _____, dated _____, and the total of this draft and all other drafts previously drawn under this letter of credit does not exceed [fill in amount]."

[Signature(s) and title(s) of official(s) of issuing institution]
[Date]

This credit is subject to [the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, or the Uniform Commercial Code].

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Section 326.APPENDIX D Wording for Certificates of Deposit

A certificate of deposit, as specified in 32 Ill. Adm. Code 326.120, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATE OF DEPOSIT

[Name and address of financial institution]
Certificate of Deposit [insert date]
No. _____ [insert $ amount]

[Licensee name and address] has deposited not subject to check [spell out dollar amount] Dollars [insert numerical value $] payable to the Illinois Department of Nuclear Safety [insert number of months] months after date, upon presentation of this certificate properly endorsed. The funds are deposited for the purpose of providing financial assurance for the cost of reclamation as required by 32 Ill. Adm. Code 326. Accordingly, this certificate shall be renewed automatically unless (a) [financial institution] receives written notice from the Department of (1) the default of [licensee] on these obligations, (2) the termination of the facility license, or (3) the substitution of another financial assurance arrangement; or (b) [financial institution] provides a minimum of 180 days written notice of its decision not to renew as provided in the Department's rules. In the event the Department notifies [financial institution] that [licensee] has not complied with its reclamation obligations under the Department's rules or its obligation to provide replacement financial assurance acceptable to the Department, [financial institution] shall pay the amount deposited to the Department.

[Financial institution] waives all rights of lien which it has or might have against this certificate.

The deposit documented in this certificate is insured by the Federal Deposit Insurance Corporation.

_____
(Cashier)

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Section 326.APPENDIX E Wording for Self-Guarantee Documents

a) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CHIEF EXECUTIVE OFFICER

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of $_____.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

CHIEF FINANCIAL OFFICER

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]

This firm guarantees, through the self-guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code

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326.70, so guaranteed, are shown for each facility:

Name of Facility	Location of Facility	Cost Estimate or 326.70 Amounts

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.140 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test applicable to licensee from subsection (c), (d) or (e) of this Appendix.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

b) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

SELF-GUARANTEE

Self-guarantee made this [date] by [name and address of licensee], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "licensee," to the Illinois Department of Nuclear Safety.

Recitals

1) The licensee has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the licensee has a Board of Directors, insert the following: "Licensee has approval from its Board of Directors to enter into this guarantee."]
2) This guarantee is being issued to comply with regulations issued by the Illinois Department of Nuclear Safety, pursuant to the Radiation Protection Act of 1990 as amended. The Illinois

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Department of Nuclear Safety has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].
4) The licensee meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.140 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.
5) Reclamation activities as used below refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified above.
6) The licensee guarantees to the Illinois Department of Nuclear Safety that it will:
   A) Carry out the required reclamation activities as required by 32 Ill. Adm. Code 330; or
   B) Upon written notification from the Department, pay the reclamation cost amount guaranteed for the facility(ies) to the Department as directed by the Director.
7) The licensee shall submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the licensee's fiscal year.
8) If, at the end of any fiscal year before termination of this guarantee, the licensee fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Illinois Department of Nuclear Safety that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the licensee shall provide such financial assurance.
9) The licensee shall notify the Department promptly if the ownership of the licensee is transferred and shall maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Department.
10) The licensee, as well as its successors and assigns, agrees to remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Department-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee

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pursuant to 32 Ill. Adm. Code 326.

11) All bound parties shall be jointly and severally liable for all litigation costs incurred by the Department in any successful effort to enforce this guarantee.
12) The licensee shall remain bound under this guarantee for as long as the licensee must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the licensee may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.
13) If the licensee fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the licensee shall make full payment under this guarantee.
14) The licensee expressly waives notice of acceptance of this guarantee by the Illinois Department of Nuclear Safety.
15) If the licensee files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Illinois Department of Nuclear Safety during each year in which this guarantee is in effect.

I hereby certify that the content of this guarantee is true and correct to the best of my knowledge.

Effective date: _____
[Name of licensee]
[Signature of chief executive officer or equivalent]
[Below the signature, type or print that person's name and title]
Signature of witness or notary: _____

c) Financial test documentation for self-guarantee for a commercial company issuing bonds:

   1) Current reclaiming and decommissioning cost estimates or certified amounts

      A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee $_____

      B) Total reclaiming cost estimates and certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $_____

      C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other

regulatory agencies (e.g., EPA) $_____

Total for line 1 $_____

2) Current bond rating of most recent unsecured issuance of this firm

Rating _____

Name of rating service _____

3) Date of issuance of bond _____

4) Date of maturity of bond _____

5)* Tangible net worth** (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) $_____

6)* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $_____

		Yes	No
7)	Is line 5 at least 10 times line 1?	____	____
8)	Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9	____	____
9)	Is line 6 at least 10 times line 1?	____	____
10)	Is rating specified on line 2 "A" or better	____	____
11)	Does the licensee have at least one class of equity securities registered under the Securities Exchange Act of 1934?	____	____

---

* Denotes figures derived from financial statements.
** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

d) Financial test documentation for commercial companies that have no outstanding rated bonds:

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee $_____

B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $_____

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., EPA) $_____

Total for line 1 $_____

2)* Total liabilities (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) $_____

3)* Tangible net worth** $_____

4)* Net worth $_____

5)* The sum of net income plus depreciation, depletion and amortization $_____

6)* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $_____

		Yes	No
7)	Is line 3 greater than $10 million, or at least 10 times line 1, whichever is greater	____	____

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8)	Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9	____	____
9)	Is line 6 at least 10 times line 1?	____	____
10)	Is line 5 divided by line 2 greater than 0.15?	____	____
11)	Is line 2 divided by line 4 less than 1.5?	____	____

---

* Denotes figures derived from financial statements.
** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

e) Financial test documentation for self-guarantee for hospitals (Complete either Alternative 1 or Alternative 2):

Alternative 1

1) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this institution

Rating _____

Name of rating service _____

2) Date of issuance of bond _____

3) Date of maturity of bond _____

		Yes	No
4)	Is the rating specified on line 1 "A" or better	___	___

Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee $_____

B) Total reclaiming cost estimates and certified

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amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $_____

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., EPA) $_____

Total for line 1 $_____

2)* Total revenues $_____

3)* Operating revenues $_____

4)* Total expenditures $_____

5)* Total long-term debt $_____

6)* Net fixed assets** $_____

7)* Current assets $_____

8)* Depreciation fund $_____

9)* Current liabilities $_____

		Yes	No
10)	Is line 3 at least 100 times line 1?	____	____

Guarantor shall meet each of the following ratios:

11)	Is (line 2 minus line 4) divided by line 2 at least 0.04?	____	____
12)	Is line 5 divided by line 6 less than or equal to 0.67?	____	____
13)	Is (line 7 plus line 8) divided by line 9 at least 2.55?	____	____

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* Denotes figures derived from financial statements.
** Net fixed assets is defined as fixed assets minus accumulated depreciation.

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f) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130 and 326.140, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of [self-guarantor's name] for the year ended [insert date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary. [Self-guarantor's name] has prepared documents to demonstrate its financial responsibility under Illinois Department of Nuclear Safety's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert IDNS license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter with the company's financial statements. In connection therewith, we have:

1) Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the licensee's financial statements for the year ended [date];
2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
3) Confirmed that the amounts in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and
4) Recomputed the totals and percentages.

Because the procedures in subsections (1)-(4) above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

_____ _____

Signature Date

AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER

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[Name of self-guarantor]

Year ended [date]

Line # in CFO's Letter		Per Financial Statements	Reconciling Items	Per CFO's Letter
6	Total current liabilities	X		
	Long-term debt	X		
	Deferred income taxes	X		
		XX		
	Accrued decommissioning costs Included in current liabilities		X	
	Total liabilities (less accrued decommissioning costs)			X
4	Net Worth	XX		
	Less: Cost in excess of value of tangible assets acquired	X		
		XX		
	Accrued decommissioning costs Included in current liabilities		X	
	Tangible net worth (plus decommissioning costs)			XX

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

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Section 326.APPENDIX F Wording for Parent Company Guarantee Documents

a) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CHIEF EXECUTIVE OFFICER

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of $_____.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

CHIEF FINANCIAL OFFICER

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]

This firm guarantees, through the parent company guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by subsidiary(ies) of this firm. The current cost estimates or amounts

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specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

Name of Facility	Location of Facility	Cost Estimate or 326.70 Amounts

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.160 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test from subsection (c) of this Appendix F.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

b) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

PARENT COMPANY GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "guarantor," to the Illinois Department of Nuclear Safety, on behalf of our subsidiary [licensee] of [business address].

Recitals

1) The guarantor has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the guarantor has a Board of Directors, insert the following: "Guarantor has approval from its Board of Directors to enter into this guarantee."]

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2) This guarantee is being issued to comply with regulations issued by the Illinois Department of Nuclear Safety, pursuant to the Radiation Protection Act of 1990 as amended. The Illinois Department of Nuclear Safety has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].

4) The guarantor meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.160 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.

5) The guarantor has majority control of the voting stock for the following licensee(s) covered by this guarantee. [For each facility, include its license number, name, address and current cost estimates for the specified activities.]

6) Reclamation activities as used below refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified above.

7) For value received from [licensee], [if the guarantor is a corporation, add "and pursuant to the authority conferred upon the guarantor by ["the unanimous resolution of its directors" or "the majority vote of its shareholders"], a certified copy of which is attached,"] the guarantor guarantees to the Illinois Department of Nuclear Safety that if the licensee fails to perform the required reclamation activities as required by 32 Ill. Adm. Code 330, the guarantor shall:

   A) Carry out the required reclamation activities; or

   B) Upon written notification from the Department, pay the reclamation cost amount guaranteed for the facility(ies) to the Department as directed by the Director.

8) The guarantor agrees to submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the parent guarantor's fiscal year.

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9) The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, it fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Illinois Department of Nuclear Safety that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance if [the licensee] has not done so.

10) The guarantor agrees to notify the Department promptly if the ownership of the licensee or parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Department.

11) The guarantor agrees that, within 30 days after it determines that it no longer meets the financial test criteria or it is disallowed from continuing as a guarantor for [the licensee], it shall establish an alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 as applicable, in the name of [licensee] unless [licensee] had done so.

12) The guarantor as well as its successors and assigns shall remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Department-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 32 Ill. Adm. Code 326.

13) The guarantor agrees that all bound parties shall be jointly and severally liable for all litigation costs incurred by the Department in any successful effort to enforce the agreement against the guarantor.

14) The guarantor shall remain bound under this guarantee for as long as [licensee] must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the guarantor may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.

15) The guarantor agrees that if [licensee] fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the guarantor shall provide such alternative

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financial assurance in the name of [licensee] or make full payment under this guarantee.

16) The guarantor expressly waives notice of acceptance of this guarantee by the Illinois Department of Nuclear Safety or by [licensee]. The guarantor also expressly waives notice of amendments or modification of the reclamation requirements and of amendments or modifications of the license.

17) If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Illinois Department of Nuclear Safety during each year in which this guarantee is in effect.

I hereby certify that the content of this guarantee is true and correct to the best of my knowledge.

Effective date: _____
[Name of guarantor]
[Signature of chief executive officer or equivalent]
[Below the signature, type or print that person's name and title]
Signature of witness or notary: _____

c) Financial test documentation for parent company guarantee (Complete either Alternative 1 or Alternative 2):

Alternative 1

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) rent reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee $_____

B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $_____

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., EPA) $_____

Total for line 1 $_____

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2)* Total liabilities (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) $_____

3)* Tangible net worth** $_____

4)* Net worth $_____

5)* Current assets $_____

6)* Current liabilities $_____

7)* Net working capital (line 5 minus line 6) $_____

8)* The sum of net income plus depreciation, depletion and amortization $_____

9)* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $_____

		Yes	No
10)	Is line 3 at least $10 million?	___	___
11)	Is line 3 at least 6 times line 1?	___	___
12)	Is line 7 at least 6 times line 1?	___	___
13)	Are at least 90 percent of the firm's assets located in the United States? If not, complete line 14	___	___
14)	Is line 9 at least 6 times line 1?	___	___

Guarantor shall meet two of the following three ratios:

15)	Is line 2 divided by line 4 less than 2.0?	___	___
16)	Is line 8 divided by line 2 greater than 0.1?	___	___
17)	Is line 5 divided by line 6 greater than 1.5?	___	___

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* Denotes figures derived from financial statements.
** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

   A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee $____

   B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company gurantees or self-guarantees $____

   C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., EPA) $____

   Total for line 1 $____

2) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this firm

   Rating _____

   Name of rating service _____
3) Date of issuance of bond _____
4) Date of maturity of bond _____

5) Tangible net worth** (if any portion of estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) $____

6) Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $____

	Yes	No
7) Is line 5 at least $10 million?	___	___
8) Is line 5 at least 6 times line 1?	___	___
9) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 10	___	___
10) Is line 6 at least 6 times line 1?	___	___
11) Is the rating specified on line 2 BBB or better (if issued by Standard & Poor's) or Baa or better (if issued by Moody's)?	___	___

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* Denotes figures derived from financial statements.
** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

d) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of [name of parent guarantor] ("Company") for the year ended [insert date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary.

The Company has prepared documents to demonstrate its financial responsibility under Illinois Department of Nuclear Safety's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert IDNS license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter with the company's financial statements. In connection therewith, we have:

1) Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the company's financial statements for the year ended [date];

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2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
3) Confirmed that the amounts in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and
4) Recomputed the totals and percentages. Because the procedures in subsections (1)-(4) above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

_____ _____
Signature Date

AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER

[COMPANY]

Year ended [date]

Line # In CFO's Letter		Per Financial Statements	Reconciling Items	Per CFO's Letter
6	Total current liabilities	X		
	Long-term debt	X		
	Deferred income taxes	X		
		XX		
	Accrued decommissioning costs Included in current liabilities		X	
	Total liabilities (less accrued decommissioning costs)			X
4	Net Worth	XX		
	Less: Cost in excess of value of tangible assets acquired	X		
		XX		
	Accrued decommissioning costs Included in current liabilities		X	

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Tangible net worth (plus decommissioning costs)	XX

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing of Radioactive Material

2) Code Citation: 32 Ill. Adm. Code 330

3)

Section Number:	Proposed Action:
330.10	Amendment
330.220	Amendment
330.250	Amendment
330.260	Amendment
330.290	New Section
330.310	Amendment
330.340	Amendment
330.350	Amendment
330.360	Repealed
330.500	Amendment
330.900	Amendment
Appendix C	New Section
Appendix G	Repealed
Appendix H	Repealed

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this amendment to clarify and streamline certain licensing requirements. Additional requirements for persons generally licensed to possess radioactive materials were contained in 32 Ill. Adm. Code 320 and have been included in this Part. Further, the amendments to this Part describe procedures and requirements for large licensees to establish emergency plans and deletes old requirements and adds references to the new financial assurance requirements being proposed at 32 Ill. Adm. Code 326.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be

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submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not for profit corporations effected: The proposed changes will not have any significant impact on small businesses, small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: New notification requirements are contained in Sections 330.220(b) and 330.310(b), (h) and (i). New procedures are required only for certain licensees and are specified in Section 330.290.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begin on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 330
LICENSING OF RADIOACTIVE MATERIAL

SUBPART A: GENERAL PROVISIONS

SUBPART B: TYPES OF LICENSES

SUBPART C: SPECIFIC AND GENERAL LICENSES

DEPARTMENT OF NUCLEAR SAFETY

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SUBPART D: TRANSPORTATION (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Filed April 20, 1974, by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 5 Ill. Reg. 9586, effective September 10, 1981; codified at 7 Ill. Reg. 17492; recodified at 10 Ill. Reg. 11268; amended at 10 Ill. Reg. 17315, effective September 25, 1986; amended at 15 Ill. Reg. 10632, effective July 15, 1991; amended at 18 Ill. Reg. 5553, effective March 29, 1994; emergency amendment at 22 Ill. Reg. 6242, effective March 18, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14459, effective July 27, 1998; amended at 24 Ill. Reg. _____, effective _____.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by bolded parentheses; subscript are denoted by bolded brackets.

SUBPART A: GENERAL PROVISIONS

Section 330.10 Purpose and Scope

a) This Part provides for the licensing of radioactive material. No

person shall receive, possess, use ~~utilize~~, manufacture, distribute, transfer, own or acquire radioactive material or devices or equipment utilizing or producing such materials except as authorized in a specific or general license issued pursuant to this Part or as otherwise provided in 32 Ill. Adm. Code. These requirements provide for the protection of health, safety and the environment ~~this Part~~.

b) The requirements of this Part are in addition to, and not in substitution for, others in 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Additional specific requirements for certain types of licenses are found in different Parts of 32 Ill. Adm. Code. ~~In addition to the requirements of subsection (a) above, all licensees are subject to the requirements of this Part and 32 Ill. Adm Code 310, 320, 331, 340, 341 and 400. Licensees engaged in source material milling or possessing byproduct material as defined in Section 4(a)(2) of the Radiation Protection Act of 1990 (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 210 1 et seq.) [420 ILCS 40/4(a)(2)], are also subject to the requirements of 32 Ill. Adm. Code 332. Licensees engaged in industrial radiographic operations are also subject to the requirements of 32 Ill. Adm Code 350. Licensees using radioactive material in the healing arts are also subject to the requirements of 32 Ill. Adm Code 335. Licensees engaged in wireline and subsurface tracer studies are also subject to the requirements of 32 Ill. Adm Code 351. The requirements of this Part do not apply to carriers. Carriers are subject to the requirements of 32 Ill. Adm. Code 341.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: TYPES OF LICENSES

Section 330.220 General Licenses - Radioactive Material Other Than Source Material

a) Certain Devices and Equipment. A general license is hereby issued to transfer, receive, acquire, ~~own~~, possess and use radioactive material incorporated in the following devices or equipment which have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to 10 CFR 31.3. This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 340, 341, 400 and Sections 330.40(a)(2), 330.310, 330.400 and 330.500 of this Part.

AGENCY NOTE: Attention is directed particularly to the provisions of 32 Ill. Adm. Code 340 which relate to the labeling of containers.

1) Static Elimination Device. Devices designed for use as static eliminators which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 microCi) of polonium-210 per device.

2) Ion Generating Tube. Devices designed for ionization of air which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 microCi) of polonium-210 per device or a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.

b) Certain Measuring, Gauging or Controlling Devices

1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business and State or local government agencies to ~~own~~, receive, acquire, possess, use or transfer in accordance with the provisions of subsections (b)(2) through (4) of this Section ~~below~~, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

2) The general license in subsection (b)(1) of this Section ~~above~~ applies only to radioactive material contained in devices which have been manufactured and labeled in accordance with the specifications contained in a specific license issued by the Department pursuant to Section 330.280(d) of this Part or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, which authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

AGENCY NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

3) Any person who ~~owns~~, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in subsection (b)(1) of this Section ~~above~~:

A) Shall assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and shall comply with all instructions and precautions provided by such labels;

B) Shall assure that the device is tested for leakage of, or contamination by, radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than 6-month intervals or at such other intervals as are specified in the label; however:

i) Devices containing only krypton need not be tested for leakage of, or contamination by, radioactive material; and

ii) Devices containing only tritium or not more than 3.7 MBq (100 microCi) of other beta and/or gamma emitting material or 370 kBq (10 microCi) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

C) Shall assure that (including testing required by subsection (b)(3)(B) of this Section ~~above~~), installation, servicing and removal from installation involving the radioactive material, its shielding or containment, are performed:

i) In accordance with the instructions provided by the labels; or

ii) By a person holding an applicable specific license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities;

D) Shall maintain records showing compliance with the requirements of subsections (b)(3)(B) and (C) of this Section ~~above~~. The records shall show the results of tests concerning the installation, testing for leakage or contamination, servicing and removal of radioactive material, its shielding or containment. The records also shall show the dates of performance of and the names of persons performing these tests. Records of tests for leakage of, or contamination by, radioactive material required by subsection (b)(3)(B) of this Section ~~above~~ shall be maintained for 1 year after the next required test for leakage or contamination is performed or until the sealed source is transferred or disposed of. Records of tests of the on-off mechanism and indicator required by subsection (b)(3)(B) of this Section ~~above~~ shall be maintained for 1 year after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of. Records which are required by subsection (b)(3)(C) of this Section ~~above~~, other than records of tests for leakage of, or contamination by, radioactive material, shall be maintained for a period of 2 years from the date of the recorded event or until the device is transferred or disposed of;

E) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 Bq (5 nCi) or more removable radioactive material, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Department a report containing a brief description of the event and the remedial action taken;

F) Shall not abandon the device containing radioactive material;

G) Except as provided in subsection (b)(3)(H) of this Section ~~below~~, shall transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State whose specific license authorizes him to receive the device and within 30 days after transfer of a device to a specific licensee shall furnish to the Department a report containing identification of the device by manufacturer's name and model number and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

H) Shall transfer the device to another general licensee only:

i) Where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of subsection (b) of this Section and any safety documents identified in the label on the device and within 30 days after ~~of~~ the transfer, report to the Department the manufacturer's name and model number of device transferred, the name and address of the transferee and the name and/or position of an individual who may constitute a point of contact between the Department and the transferee; or

ii) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee;

I) Shall notify the Department in writing no later than 30 days after receiving a device containing radioactive material. Such notification shall include:

i) The name and mailing address of the general licensee;

ii) Information about the device, including the manufacturer, model, serial number, date of receipt, location of use within the radiation installation, and radionuclides and activities within the device;

iii) Addresses at which devices are used or stored; and

iv) The name and telephone number of an individual responsible for having knowledge of the applicable regulations and the authority to take required actions to achieve compliance. The appointment of a

responsible individual does not relieve the general licensee of its responsibility to ensure compliance with the regulations;

J) Shall report changes in the information submitted pursuant to subsection 330.220(b)(3)(I) of this Section. Such changes shall be reported within 30 days after they occur;

K~~I~~) Shall comply with the provisions of 32 Ill. Adm. Code 340.1210, 340.1220 and 340.1260 for reporting radiation incidents, theft, loss, leakage of, or contamination by, licensed material, but shall be exempt from the other requirements of 32 Ill. Adm. Code 340 and 400.

4) An out-of-state general licensee or other person from out-of-state shall notify the Department in writing prior to transporting a device into Illinois. Such notification shall include the proposed locations and periods of possession. The notification shall also include the information required by subsection (b)(3)(I) of this Section, except that the date of receipt of a devise and its location within a radiation installation need not be reported. The out-of-state person shall report proposed changes in the notification information previously submitted under this subsection (b)(4) before the changes occur.

5~~4~~) The general license in subsection (b)(1) of this Section ~~above~~ does not authorize the manufacture of devices containing radioactive material.

6~~5~~) The general license provided in subsection (b)(1) of this Section ~~above~~ is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 326, 331, 341 and Sections 330.310, 330.400 and 330.500 of this Part.

c) Luminous Safety Devices for Aircraft

1) A general license is hereby issued to ~~own~~ receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

A) Each device contains not more than 370 GBq (10 Ci) of tritium or 11.1 GBq (300 mCi) of promethium-147; and

B) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Department or an Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR 32.53 published January 1, 1998 ~~1993~~, exclusive of subsequent amendments or editions.

2) Persons who ~~own~~ receive, acquire, possess or use luminous safety devices pursuant to the general license in subsection (c)(1) of this Section ~~above~~ are exempt from the requirements of 32 Ill. Adm. Code 340 and 400, except that they shall comply with the

provisions of 32 Ill. Adm. Code 340.1210 and 340.1220.

3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

4) This general license does not authorize the ~~ownership~~ receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

5) This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 341 and Sections 330.310, 330.400 and 330.500 of this Part.

d) Ownership of Radioactive Material. A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this Part, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

e) Calibration and References Sources

1) A general license is hereby issued to those persons listed below to ~~own~~ receive, acquire, possess, use and transfer, in accordance with the provisions of subsections (e)(4) and (5) of this Section ~~below~~, americium-241 in the form of calibration or reference sources:

A) Any person who holds a specific license issued by the Department which authorizes him to receive, possess, use and transfer radioactive material; and

B) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission which authorizes him to receive, possess, use and transfer special nuclear material.

2) A general license is hereby issued to ~~own~~ receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subsections (e)(4) and (5) of this Section ~~below~~ to any person who holds a specific license issued by the Department which authorizes him to receive, possess, use and transfer radioactive material.

3) A general license is hereby issued to ~~own~~ receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of subsections (e)(4) and (5) of this Section ~~below~~ to any person who holds a specific license issued by the Department which authorizes him to receive, possess, use and transfer radioactive material.

4) The general licenses in subsections (e)(1) through (3) of this Section ~~above~~ apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.57 or 70.39, or which have been manufactured in accordance with the specifications contained in a specific license issued by the Department, an Agreement State or a Licensing State pursuant to licensing

requirements equivalent to those contained in 10 CFR 32.57 or 70.39, published January 1, 1998 ~~1993~~, exclusive of subsequent amendments or editions.

5) The general licenses provided in subsections (e)(1) through (3) of this Section ~~above~~ are subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 340, 341, 400 and Sections 330.310, 330.400 and 330.500 of this Part. In addition, persons who ~~own~~, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

A) Shall not possess at any one time, at any one location of storage or use, more than 185 kBq (5 microCi) of americium-241, 185 kBq (5 microCi) of plutonium or 185 kBq (5 microCi) of radium-226 in such sources;

B) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements, as appropriate, or a statement which contains the information called for in one of the following statements, as appropriate:

i) The receipt, possession, use and transfer of this source, Model _____ , Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM). DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____
Name of Manufacturer or Importer

AGENCY NOTE: Showing only the name of the appropriate material.

ii) The receipt, possession, use and transfer of this source, Model _____ , Serial No. _____, are subject to a general license and the regulations of a Licensing State. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____
Name of Manufacturer or Importer

C) Shall not transfer, abandon or dispose of such source except by transfer to a person authorized by a license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;

D) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 which might otherwise escape during storage; and

E) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium or radium-226.

f) General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

AGENCY NOTE: The New Drug provisions of the Federal Food, Drug and Cosmetic Act also govern the availability and use of any specific diagnostic drugs in interstate commerce.

1) A general license is hereby issued to any physician, veterinarian, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of subsections (f)(2) through (6) of this Section ~~below~~, the following radioactive materials in prepackaged units for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

A) Carbon-14, in units not exceeding 370 kBq (10 microCi) each.

B) Cobalt-57, in units not exceeding 370 kBq (10 microCi) each.

C) Hydrogen-3 (tritium), in units not exceeding 1.85 MBq (50 microCi) each.

D) Iodine-125, in units not exceeding 370 kBq (10 microCi) each.

E) Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nCi) of iodine-129 and 185 Bq (5 nCi) of americium-241 each.

F) Iodine-131, in units not exceeding 370 kBq (10 microCi) each.

G) Iron-59, in units not exceeding 740 kBq (20 microCi) each.

H) Selenium-75, in units not exceeding 370 kBq (10 microCi) each.

2) No person shall receive, acquire, possess, use or transfer

radioactive material pursuant to the general license established by subsection (f)(1) of this Section **above** until he has filed the Department form entitled "Certificate - In Vitro Testing with Radioactive Material Under General License," with the Department and received from the Department a validated copy of the form with certification number assigned. No person shall transfer a validated copy of the form to another person without prior written consent of the Department. The following information shall be furnished to the Department on the form entitled "Certificate - In Vitro Testing with Radioactive Material Under General License":

A) Name and address of the physician, veterinarian, clinical laboratory or hospital;

B) The location of use; and

C) A statement that the physician, veterinarian, clinical laboratory or hospital has appropriate radiation measuring instruments to carry out in vitro clinical or laboratory tests with radioactive material as authorized under the general license in subsection (f)(1) of this Section **above** and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive material.

3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by subsection (f)(1) of this Section **above** shall comply with the following:

A) The general licensee shall not possess at any one time, pursuant to the general license in subsection (f)(1) of this Section **above**, at any one location of storage, or use a total amount of iodine-125, iodine-131, selenium-75, iron-59 and/or cobalt-57 in excess of 7.4 MBq (200 microCi).

B) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

C) The general licensee shall use the radioactive material only for the uses authorized by subsection (f)(1) of this Section **above**.

D) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

E) The general licensee shall dispose of the mock iodine-125 reference or calibration sources described in subsection (f)(1)(E) of this Section **above** as required by 32 Ill. Adm. Code 340.1010(a).

4) The general licensee shall not receive, acquire, possess or use radioactive material pursuant to subsection (f)(1) of this Section **above**:

A) Except as prepackaged units which are labeled in accordance with the provisions of an applicable specific license issued pursuant to Section 330.280(g) of this Part or in accordance with the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State which authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, selenium-75, cobalt-57 or mock iodine-125 to persons generally licensed under subsection (f) of this Section or its equivalent; and

B) Unless one of the following statements, as appropriate, or a statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

i) This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____

Name of Manufacturer

ii) This radioactive material shall be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____

Name of Manufacturer

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5) The physician, veterinarian, clinical laboratory or hospital possessing or using radioactive material under the general license of subsection (f)(1) of this Section ~~above~~ shall report in writing to the Department, any changes in the information furnished by him in the "Certificate - In Vitro Testing with Radioactive Material Under General License", Department Form KLM.006. The report shall be furnished within 30 days after the effective date of such change.

6) Any person using radioactive material pursuant to the general license of subsection (f)(1) of this Section ~~above~~ is exempt from the requirements of 32 Ill. Adm. Code 340 and 400 with respect to radioactive material covered by that general license, except that such persons using the mock iodine-125 described in subsection (f)(1)(E) of this Section ~~above~~ shall comply with the provisions of 32 Ill. Adm. Code 340.1010(a), 340.1210 and 340.1220.

7) This general license is subject to the provisions of 32 Ill. Adm. Code 310 and 331.

g) Ice Detection Devices

1) A general license is hereby issued to ~~own~~, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 1.85 MBq (50 microCi) of strontium-90 and each device has been manufactured or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured or initially transferred in accordance with the specifications contained in a specific license issued by the Department or an Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in 10 CFR 32.61.

2) Persons who ~~own~~, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in subsection (g)(1) of this Section ~~above~~:

A) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage or contamination and repaired by a person holding a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of 32 Ill. Adm. Code 340.1010(a);

B) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

C) Are exempt from the requirements of 32 Ill. Adm. Code 340 and 400 except that such persons shall comply with the provisions of 32 Ill. Adm. Code 340.1010(a), 340.1210, 340.1220 and 340.1260.

3) This general license does not authorize the manufacture,

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assembly, disassembly or repair of strontium-90 in ice detection devices.

4) This general license is subject to the provisions of 32 Ill. Adm. Code 310.40 through 310.90, 341 and Sections 330.310, 330.400 and 330.500 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: SPECIFIC AND GENERAL LICENSES

Section 330.250 General Requirements for the Issuance of Specific Licenses

a) A license application or a request for an amendment to an existing license will be approved only if the Department determines that:

1) The applicant's Radiation Safety Officer and authorized users are ~~applicant--is~~ qualified by reason of training and experience to use the material in question for the purpose requested ~~in accordance--with-this-Part~~ in such a manner as to minimize danger to ~~public~~ health and safety or property;

2) The applicant's proposed equipment, facilities and procedures are adequate to minimize danger to ~~public~~ health and safety or property;

3) The issuance of the license will not be inimical to the health and safety of the public; and

4) The applicant satisfies any applicable special requirements in 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

b) Environmental Report, Commencement of Construction

1) In the case of an application for a license to receive and possess radioactive material for commercial waste disposal by land burial, or for the conduct of any other activity which the Department determines will significantly affect the quality of the environment, a license application shall be reviewed and approved by the Department before commencement of construction of the plant or facility in which the activity will be conducted. Issuance of the license shall be based upon a consideration by the Department of the environmental, economic, technical and other benefits in comparison with the environmental costs and available alternatives and a determination that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values;

2) Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess radioactive material in such plant or facility. As used in this subsection the term "commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary borings to determine

foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

c) Licensees must satisfy applicable financial assurance requirements specified in 32 Ill. Adm. Code 326. ~~Financial Surety Arrangements for Reclaiming Sites. For purposes of this subsection, "reclaiming" shall mean returning property to a condition or state such that the property no longer presents a public health or safety hazard or threat to the environment.~~

~~AGENCY NOTE: For purposes of subsection (c) above, the term "reclaiming" includes but is not limited to those activities necessary to decommission the licensed facility (i.e., to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of license).~~

~~1) Unless exempted by subsections (c)(4) or (5) below, issuance, renewal or amendment of a license shall be dependent upon satisfactory financial surety arrangements to ensure the protection of the public health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements of the Act, this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Self-insurance, or any arrangement which essentially constitutes self insurance, will not satisfy the surety requirements since such arrangement provides no further assurance than being without insurance. Determination of satisfactory surety arrangements shall be subject to the following conditions:~~

~~A) Financial surety arrangements for site reclamation may consist of surety bonds, certificates of deposit, deposits of government securities, letters of credit, insurance policies or any combination of the above for the categories of licenses listed in subsection (c)(3) below. The amount of funds to be ensured by such surety arrangements shall be based on Department approved reclaiming cost estimates for disposal of all radioactive material authorized under the license, including removal of all radioactive contamination caused by authorized material to a level in conformance with 32 Ill. Adm. Code 340, Appendix A. The Department shall consider the following in approving the cost estimate of the financial surety requirements for each individual applicant or licensee:~~

~~i) The probable extent of contamination through the use or possession of radioactive material at the facility or site and the probable cost of removal of such contamination to a level in conformance with 32 Ill. Adm. Code 340, Appendix A. This consideration shall encompass probable contaminating events associated with the licensee's methods or modes of operation and shall be based on factors such as quantities, half lives, radiation hazards and toxicities, and chemical and physical forms;~~

~~ii) The extent of possible offsite property damage caused by operation of the facility or site;~~

~~iii) The cost of removal and disposal of sources of radiation, which are or would be generated, stored, processed or otherwise present at the licensed facility or site; and~~

~~iv) The costs involved in reclaiming the property on which the facility or site is located, and all other properties contaminated by radioactive material authorized under the license.~~

~~B) The financial surety arrangements shall be filed with and maintained by the Chief, Division of Radioactive Materials of the Department (hereafter referred to as the Division Chief) in a dollar amount greater than or equal to the amount approved by the Department and determined necessary to provide for the protection of public health and safety in accordance with subsection (c)(1)(A) above.~~

~~i) A licensee or applicant shall submit a cost estimate for approval by the Department in accordance with subsection (c)(1)(A) above.~~

~~ii) The licensee's surety arrangements may be reviewed annually by the Department and be adjusted to recognize any increases or decreases resulting from inflation or deflation, changes in engineering plans, activities performed and any other condition affecting costs for reclaiming to ensure that sufficient surety is retained to cover liability which remains until license termination.~~

~~iii) When a change in activities not requiring a license amendment would raise the cost estimate for reclaiming to an amount greater than the amount of financial surety currently filed with the Division Chief, the licensee shall, within 60 days after the increase, file additional financial surety at least equal to this increase.~~

~~iv) When a license amendment would raise the cost estimate for reclaiming to an amount greater than the amount of financial surety currently filed with the Division Chief, the amendment shall not be issued until the required surety arrangements are established.~~

~~v) When the current reclaiming cost estimate decreases, upon the written request of the licensee, and provided that the decrease is verified by the Division Chief, the Division Chief shall reduce the amount of~~

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financial-surety-required--for--the--facility--to--the amount-of-the-current-reclaiming-costs-estimate.--Upon such-occurrence,-the-Division-Chief-shall,-considering the--financial--surety--arrangements--on--file,-either cause-to-be-released-to-the-licensee-collateral--which has--been--deposited--equal-to-this-reduction-or-allow the-licensee-to-substitute--for--the--arrangements--on file-new-arrangements-in-the-reduced-amount.

vi) The--term--of-the-surety-arrangements-shall-be-for-the period-from-issuance-of-the-license-until--termination of--the--license--by-the-Department-in-accordance-with Section-330.320.

vii) Upon-termination-of-the-license,--the--Division--Chief will---release---all--surety--amounts--not--previously forfeited-by-the-licensee.

C) The-Director:

i) May--order--that--any--financial--surety--filed--by--a licensee-pursuant-to-subsection-(c)--be--forfeited--to the-State-if-the-Director-determines-that-the-licensee has--failed-to-perform-reclaiming-to-assure-health-and safety-from-radiation-hazards-and--comply--with--other license---requirements---or---orders---pertaining---to reclaiming.--Such--forfeiture--action-shall-follow-the procedures-provided-in-32-Ill.-Adm.-Code-200.

ii) Shall,-upon-the-date-of-issuance-of--the--final--order described-in-subsection-(c)(1)(C)(i)-above,-notify-the Attorney--General-who-shall-collect-the-forefeiture-if voluntary-payment-is-not-made-within-30--days--of--the date-of-issuance-of-the-final-order.

iii) Shall--deposit--all--funds--from--forefeited-financial sureties-in-a-temporary,-locally-held-trust-fund-to-be administered-by-the-Department-for-site-reclaiming.

D) The-licensee-or-applicant-shall-choose--from--the--financial sureties-arrangements-specified-in-Section-330.Appendix-G.

E) The--wording-of-the-financial-surety-may-be-identical-to-the wording--of--the--corresponding---arrangement---in---Section 330.Appendix--H--and--shall--contain-provisions-described-in Section-330.Appendix-G.

F) Use-of-Multiple-Financial-Surety-Arrangements.--The-licensee or-applicant-may-utilize--more--than--one--financial--surety arrangement---per---facility---to--satisfy--the--requirement specified-in-subsection-(c)(1)--above.---These--arrangements are--limited--to--bonds--supported--by--letters--of--credit, insurance--and--securities.---The--arrangement--shall--be-as specified-in-Section-330.Appendix-G,-except-that-it--is--the combination---of---arrangements,---rather--than--the--single arrangement,-which-shall-provide-financial--surety--for--the necessary-amount.

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G) Use--of-Financial-Surety-Arrangement-for-Multiple-Facilities and/or-Multiple-Licensees-at-a-Facility.---The--licensee--or applicant--may--use-a-financial-surety-arrangement-specified in-Section--330.Appendix--G--to--meet--the--requirements--of subsection--(c)(1)-above-for-more-than-one-license-he-holds, or-more-than-one-facility-he-owns-or-operates--in--Illinois. The--arrangement--submitted--to--the--Division--Chief--shall include--a--list--indicating,-for-each-facility,-the-license number(s),-name(s),-address(es)-and-amount(s)-of--funds--for reclaiming--assured-by-the-arrangement.--The-amount-of-funds available-through-the-arrangement-shall-not-be-less-than-the sum-of-the-sureties-that-would-be-available--if--a--separate arrangement--had--been-filed-and-maintained-for-each-license or--facility.---If--more--than--one--license--exists--for--a facility,-the-amount-of-funds--for--each--license--shall--be specified.

H) Substitution--of--Alternate--Financial--Surety-Arrangements. The--licensee--may--substitute--alternate--financial--surety arrangements-specified-in-Section-330.Appendix-G-meeting-the requirements-of-subsection-(c)(1)-above--for--the--financial surety--already--filed-with-the-Department-for-the-facility. However,-the-existing-arrangements-shall-not-be-released--by the--Division--Chief--until--the-substitute-financial-surety arrangements-have-been-received-and-approved.

I) Any-applicant-or-licensee-who-fulfills-the--requirements--of subsection--(c)(1)--above-by-obtaining-a-surety-bond,-letter of-credit-or-insurance-policy,-will-be-deemed-to-be--without the--required-financial-surety-in-the-event-of-bankruptcy-of the-issuing-institution,-or-a-suspension,-or--revocation--of the--authority--of--the-institution-issuing-the-surety-bond, letter--of--credit--or--insurance--policy--to---issue---such instruments.---The--applicant--or--licensee--shall-establish other-Department-approved-financial-surety--within--30--days after-such-an-event.

J) The--arrangements--required--in--subsection-(c)(1)-above-shall-be established-prior-to-issuance-or--amendment--of--the--license--to assure-that-sufficient-funds-will-be-available-for-reclaiming.

K) The--following--specific-licensees-are-required-to-make-financial surety-arrangements:--

A) Major-processors-as-defined-in-32-Ill.-Adm.-Code-310.20;

B) Waste-handling-licensees-as-defined-in--32--Ill.--Adm.--Code 310.20;

C) Wet-source-storage-irradiators;

D) Ore--processors--which--produce--source-material-tailings-or sludge;

E) Possessors-of-source-material-tailings-or-sludge;

F) Persons--who--use--particle--accelerators---to---manufacture radionuclides---for---distribution--to--other--licensees--or

~~customers;~~

~~G) Former U.S. Atomic Energy Commission or U.S. Nuclear Regulatory Commission licensed facilities that were licensed pursuant to 10 CFR 50, exclusive of subsequent amendments or additions, unless exempted by subsection (c)(4) below.~~

~~4) The following persons are exempt from the requirements of subsection (c)(1) above:~~

~~A) All State, local or other government agencies, unless they are subject to subsection (c)(3)(A) or (c)(3)(B) above;~~

~~Agency Note: For purposes of subsection (c), "government agencies" shall not include federal or state contractors, non-governmental recipients of government grants, or non-governmental medical institutions.~~

~~B) All educational institutions; and~~

~~Agency Note: An educational institution is a non-profit organization which has as its primary purpose the advancement of knowledge in one or more specific fields and which is accredited by the North Central Association of Colleges and Schools.~~

~~C) Persons authorized to possess only those radioactive materials with half-lives of 65 days or less.~~

~~5) Unless also described in subsection (c)(3) above, the following persons are exempt from the requirements of subsection (c)(1) above:~~

~~A) Persons licensed to manufacture or possess, but not distribute, radioactive material for medical purposes, including veterinary medicine;~~

~~B) Persons licensed to perform industrial radiography;~~

~~C) Persons licensed to perform wireline service operations and subsurface tracer studies;~~

~~D) Persons licensed to distribute radiopharmaceuticals, generators or reagent kits as a nuclear pharmacy;~~

~~E) Persons licensed to distribute, without processing, radioactive material or products containing radioactive material;~~

~~F) Persons licensed to possess irradiators, other than wet source storage irradiators;~~

~~G) Persons licensed to possess source material (depleted uranium) for shielding purposes;~~

~~H) Persons licensed to possess radioactive material for use in analytical instruments; and~~

~~I) Persons licensed to possess radioactive material in gauges or other measuring systems.~~

d) Long-Term Care Requirements

1) A license application will be approved only if the Department determines that a long-term care fund for monitoring and maintenance has been established by the waste handling applicant ~~licensee~~ prior to the issuance of the license; or

2) The waste handling applicants may choose, at the time of the licensure, to provide a financial surety arrangement in lieu of a long-term care fund.

AGENCY NOTE: Long-term care funding may also be required for former U.S. Atomic Energy Commission or U.S. Nuclear Regulatory Commission licensed facilities, or persons whose activities cause situations that significantly affect ~~the public~~ health and safety, or the environment by reason of exposure to radiation or radioactive materials.

e) Emergency Plan

1) Except as exempted by subsection (e)(2) of this Section, each application to possess radioactive materials in excess of the quantities in Appendix C of this Part in unsealed form or sealed in glass or on foils or plated sources shall contain either:

A) An evaluation showing that the maximum dose to an individual offsite due to a release of radioactive materials would not exceed 10 mSv (1 rem) total effective dose equivalent or 50 mSv (5 rem) effective dose equivalent to the thyroid; or

B) An emergency plan, as described in Section 330.290 of this Part, for responding to a release of radioactive material.

2) The requirements of this subsection (e) do not apply to licensees that possess only radioactive waste packaged in Type B containers.

3) In evaluating the maximum dose to an individual pursuant to subsection (e)(1)(A) of this Section, the applicant may take into account whether:

A) The radioactive material is physically separated so that only a portion could be involved in an accident;

B) All or part of the radioactive material is not subject to release during an accident due to the method of storage or packaging;

C) The release fraction in the respirable size range is predicted to be lower than the release fraction shown in Appendix C of this Part due to the chemical or physical form of the material;

D) The solubility of the radioactive material is predicted to reduce the dose received;

E) Facility design or engineered safety features in the facility are predicted to cause the release fraction to be lower than shown in Appendix C of this Part; or

F) Operating restrictions or procedures are predicted to prevent a release fraction as large or larger than that shown in Appendix C of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.260 Special Requirements for Issuance of Certain Specific Licenses

for Radioactive Materials

a) Specific Licenses to Medical Institutions for Human Use of Radioactive Material. A specific license allowing a medical institution to use ~~for human use of~~ radioactive material for medical diagnosis, medical therapy, or medical research involving humans ~~in institutions~~ shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 335 ~~and the requirements set forth in Section 330.250~~.

b) Specific Licenses to Individual Physicians for Human Use of Radioactive Material. An application by an individual physician or group of physicians for a specific license for human use of radioactive material shall be approved only if:

1) The applicant satisfies the general requirements specified in this Part ~~Section 330.250~~;

2) The application is for use in the applicant's practice in an office outside a medical institution; and

3) The applicant has met the requirements of 32 Ill. Adm. Code 335.

c) Specific Licenses for Distribution or Transfer of Radiopharmaceuticals ~~Pharmacies Using Radioactive Material~~. In addition to the requirements set forth in this Part, persons licensed by the Department for distribution or transfer of radiopharmaceuticals ~~Section 330.250, a specific license for a pharmacy~~ shall meet the following additional requirements:

1) Radiopharmaceuticals dispensed, ~~and/or~~ distributed or transferred for human use shall be either:

A) Repackaged from prepared radiopharmaceuticals that have been approved by the U.S. Food and Drug Administration (FDA) for medical use as defined in 32 Ill. Adm. Code 335.20; or

B) Prepared from generators and reagent kits that have been approved by the FDA for medical use, or are subject to the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] or the Pharmacy Practice Act of 1987 [225 ILCS 85] ~~are the subject of an FDA approved "New Drug Application" (NDA) or for which the FDA has accepted an "Investigational New Drug Application" (IND)~~.

~~2) Prepared radiopharmaceuticals for which FDA has accepted an IND and radiopharmaceuticals prepared from generators or reagent kits for which the FDA has accepted an IND shall be dispensed and/or distributed:~~

~~A) In accordance with the directions provided by the sponsor of the IND; and~~

~~B) Only to physicians who have been accepted by the sponsor of the IND to participate in clinical evaluation of the drug;~~

~~3) The licensee shall inform in writing each physician who participates in an IND evaluation that the physician is responsible to the sponsor of the IND for use of the drug in accordance with protocols established by the sponsor and for~~

~~reporting to the sponsor the clinical information obtained through use of the drug;~~

~~4) The licensee shall procure biological products labeled with radionuclides or kits used to prepare such products from a supplier who holds an unsuspended or unrevoked license issued by either the U.S. Department of Health, Education and Welfare or the U.S. Department of Health and Human Services to propagate, manufacture, prepare, label or distribute the products;~~

2~~5~~) The licensee shall perform radiometric tests for molybdenum breakthrough upon each elution of a molybdenum-99/technetium-99m generator in accordance with the requirements of 32 Ill. Adm. Code 335.~~4020~~;

~~6) The licensee shall procure all radiopharmaceuticals from a supplier who manufactures or repackages the product under appropriate pharmaceutical controls related to assay, identity, quality, purity, sterility and non-pyrogenicity;~~

3~~7~~) The licensee shall dispense radiopharmaceuticals only under the prescription of a ~~specifically licensed~~ physician who is authorized in a specific license to ~~possess and~~ use the radiopharmaceuticals ~~or of a physician authorized under the provisions of a broad radioactive material license~~. The licensee shall maintain a copy of the recipient's radioactive material license ~~of each customer physician~~ and shall verify that the physician is authorized to receive the prescribed radiopharmaceutical prior to transfer ~~transferring the radiopharmaceutical~~.

4~~8~~) The licensee may distribute in vitro test kits to customers but shall neither remove any package insert nor violate the packaging.

~~9) The licensee shall subject each batch of sulfur colloid to microscopic tests for particle size and chromatographic tests for free pertechnetate, and shall maintain records of such tests for inspection by the Department. Preparations which contain particles one micron or larger in diameter, have more than ten percent free pertechnetate, or appear flocculent or aggregated shall not be dispensed to customers.~~

5~~10~~) The licensee shall report to the Department, within 10 days of occurrence, any irregularities pertaining to identification, labeling, quality or assay of any radiopharmaceutical received under the authority of this license.

d) Use of Sealed Sources in Industrial Radiography. ~~In addition to the requirements set forth in Section 330.250, a~~ A specific license for use of sealed sources in industrial radiography shall ~~will~~ be issued only if: the applicant has met the requirements of this Part and 32 Ill. Adm. Code 350 and 405.

~~1) The applicant will have an adequate program for training radiographers and radiographer's assistants and submits to the Department a schedule or description of such program which~~

~~specifies the:--~~

~~A) Initial training;~~

~~B) Periodic training;~~

~~C) On-the-job training;~~

~~D) Means to be used by the licensee to determine the radiographer's knowledge and understanding of and ability to comply with the conditions of the license, the provisions of this Part and 32 Ill. Adm. Code 310, 320, 340, 341, 350 and 400 and the operating and emergency procedures of the applicant; and~~

~~E) Means to be used by the licensee to determine the radiographer's assistants' knowledge and understanding of and ability to comply with the operating and emergency procedures of the applicant.~~

~~2) The applicant has established and submits to the Department satisfactory written operating and emergency procedures described in 32 Ill. Adm. Code 350.2020.~~

~~3) The applicant will have an internal inspection system to assure that the requirements of 32 Ill. Adm. Code 310, 320, 340, 341, 350, 400 and this Part, license provisions and the applicant's operating and emergency procedures are followed by radiographers and radiographer's assistants; the inspection system shall include the performance of internal inspections at intervals not to exceed 3 months and the retention of records of such inspections for 2 years. The inspection records shall contain the date, name of the person performing the inspection, inspection findings and a description of any corrective action taken.~~

~~4) The applicant submits to the Department a description of the overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program.~~

~~5) The applicant who desires to conduct his own leak tests has established adequate procedures to be followed in testing sealed sources for possible leakage and contamination and submits to the Department a description of such procedures, including:~~

~~A) Instrumentation to be used;~~

~~B) Method of performing tests; and~~

~~C) Pertinent experience of the individual who will perform the test.~~

~~6) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices and storage containers to assure proper functioning of components important to safety.~~

e) Use of Radioactive Materials in Wireline Service Operations and Subsurface Tracer Studies. A specific license for use of radioactive material in wireline operations shall be issued only if the applicant has met the requirements of this Part and 32 Ill. Adm. Code 351.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.290 Requirements for Emergency Plans

a) An emergency plan for responding to a release of radioactive material submitted under Section 330.250(e) of this Part shall include the following information:

1) Facility Description. A brief description of the applicant's facility and area near the site.

2) Types of Accidents. An identification of each type of radioactive materials accident for which actions may be needed to protect members of the public.

3) Classification of Accidents. A method for classifying accidents as alerts or site area emergencies as defined below:

A) "Alert" means a condition in which events may occur, are in progress, or have occurred that could lead to a release of radioactive material but in which the release is not expected to require a response by offsite response organizations to protect individuals offsite.

B) "Site area emergency" means a condition in which events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material that could require a response by offsite response organizations to protect individuals offsite.

4) Detection of Accidents. Identification of the means of detecting each type of accident in a timely manner.

5) Mitigation of Consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

6) Assessment of Releases. A brief description of the methods and equipment to assess releases of radioactive materials.

7) Responsibilities.

A) The names and titles of the applicant's personnel responsible for developing, maintaining and updating the plan.

B) A brief description of the responsibilities of the applicant's personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations, including the Department.

C) A list of offsite response organizations and a description of their responsibilities and anticipated actions.

8) Notification and Coordination.

A) A brief description of the means, in the event of a classified accident, of promptly notifying and, if necessary, requesting assistance from the offsite response

organizations listed pursuant to subsection (a)(7)(C) of this Section. The assistance requested may include, but need not be limited to, medical treatment of contaminated or injured onsite workers.

B) A description or drawing of locations designated as locations from which control and assessment of an accident would be exercised (i.e., control points).

C) Provisions for arranging notification and coordination so that unavailability of some personnel, parts of the facility, or some equipment will not prevent notification and coordination.

9) Information to be Communicated. A brief description of the information to be provided to offsite response organizations, including the Department, in the event of a classified accident. The types of information to be provided shall include the status of the facility, a description of radioactive releases, the names and telephone numbers of onsite personnel designated as points of contact and recommendations for protective actions.
AGENCY NOTE: Protective actions means actions taken by members of the public to protect themselves from radiation from an incident involving radioactive material, which may include sheltering, evacuation, relocation, control of access, administration of radioprotective drugs, decontamination of persons, decontamination of land or property, or control of food or water.

10) Training.

A) A brief description of the performance objectives and plans for annual training that the applicant will provide workers on how to respond to an emergency, including any special instructions and orientation tours that the applicant will provide for fire, police, medical and other emergency personnel.

B) Provisions for familiarizing personnel with site-specific emergency procedures.

C) Provisions for preparing site personnel for their responsibilities for a range of accident scenarios for the specific site, including the use of drills, exercises and team training for such scenarios.

11) Safe Shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

12) Exercises. Provisions for:

A) Conducting quarterly communications checks with offsite response organizations that include the verification and updating of all necessary phone numbers.

B) Inviting offsite response organizations to participate in biennial exercises.
AGENCY NOTE: Participation of offsite response organizations in biennial exercises, although recommended, is not required.

C) Using accident scenarios postulated as most probable for the specific site.

D) Ensuring that accident scenarios are not known to exercise participants.

E) Providing critiques of each exercise by individuals who have no direct implementation responsibility for the plan.

b) The applicant shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the applicant's emergency plan before submitting it to the Department. Significant amendments to the plan should also be provided to offsite agencies for comment before submission to the Department. The licensee shall provide any comments received within the 60 days to the Department with the emergency plan.

c) Hazardous Chemicals. The applicant shall certify to the Department that it has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the radioactive material.

d) The licensee shall:

1) Comply with the provisions and descriptions of the emergency plan submitted pursuant to this Section;

2) Update the emergency plan at intervals not to exceed 1 year, and report the update to the Department and to affected offsite response organizations within 30 days after the update is completed;

3) Obtain Departmental approval before implementing changes to the plan, except for updates to names, titles and telephone numbers;

4) Provide training at intervals not to exceed 1 year for all personnel with responsibilities for responding to accidents postulated as most probable for the specific site;

5) Conduct biennial onsite exercises to test the response to simulated emergencies;

6) Perform critiques of drills and exercises and ensure that such critiques evaluate the appropriateness of the emergency plan, emergency procedures, facilities, equipment, training of personnel and overall effectiveness of the response;

7) Correct deficiencies noted in critiques of drills and exercises; and

8) Notify offsite response organizations, including the Department, immediately after the licensee declares an alert or site area emergency.
AGENCY NOTE: The reporting requirement of subsection (d)(8) of this Section does not supersede or relieve licensees from complying with the requirements of the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other State or federal reporting requirements.

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(Source: Added at 24 Ill. Reg. _____, effective _____)

Section 330.310 ~~Specific~~ Terms and Conditions of Specific and General Licenses ~~License~~

a) Each specific or general license issued pursuant to this Part shall be subject to all applicable license conditions, provisions of the ~~Radiation Protection~~ Act ~~of 1990 (the Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 210 1 et seq.)~~ [420 ILCS 40], ~~now or hereafter in effect~~, and to all applicable rules, regulations and orders of the Department.

b) Each person granted a general license by this Part shall provide information required by the Department to track the location and use of generally-licensed devices. Such information shall be in the format prescribed by the Department and shall be due within the time frame indicated on the notification.

cb) No specific license issued or granted to any person pursuant to ~~under~~ this Part and no right to possess or use ~~utilize~~ radioactive material granted to any person by any specific license issued pursuant to this Part shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the specific ~~any~~ license to any other person unless the Department ~~shall~~, after securing full information, first:

1) Finds ~~find~~ that the proposed transfer, assignment or disposal is in accordance with the provisions of the Act; and

2) Consents ~~shall give its consent~~ in writing to the proposed transfer, assignment or disposal.

AGENCY NOTE: Department consent is required prior to any transfer or assignment of a specific license. A purported transfer or assignment without prior written consent may subject the purported transferor or assignor to penalties for violating this Section. Likewise, a purported transferee or assignee may also be subject to penalties if it does not have a valid specific license and possesses radioactive material or performs activities requiring a valid specific license.

d) Upon approval from the Department pursuant to subsection (c)(2) of this Section for transfer, assignment or disposal of a specific license, the transferor shall ensure the following information is provided to the transferee:

1) The radioactive material license and all documents referenced in the license;

2) Records maintained in accordance with 32 Ill. Adm. Code 340, Subpart L, inventory records, and any other records required by subsections (k) and (l) of this Section; and

3) Any other information required by the Department pursuant to the approval granted.

ec) Each person licensed by the Department pursuant to this Part shall confine use and possession of the material licensed to the locations

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and purposes authorized in the license.

fd) Each person issued a specific license pursuant to this Part shall maintain the license in accordance with the requirements of Section 330.320 of this Part ~~licensee shall notify the Department in writing prior to commencing activities to reclaim the licensed facility~~.

g) When temporary jobsites are authorized on a specific license, radioactive material may be used at temporary jobsites, in areas not under exclusive federal jurisdiction, throughout the State of Illinois.

AGENCY NOTE: Authorization for use of byproduct radioactive materials at jobsites under exclusive federal jurisdiction must be obtained from the United States Nuclear Regulatory Commission, either by filing an NRC Form-241 in accordance with 10 CFR 150.20(b), "Recognition of Agreement State Licenses," or by applying for a specific license from the NRC. Also, specific licenses issued by the Department do not authorize activities in other states. Before radioactive materials can be used at a temporary jobsite in another state, a license must be obtained from the appropriate state or federal regulatory agency.

h) Each person issued a specific license pursuant to this Part shall apply for an appropriate license amendment not later than 30 days after a Radiation Safety Officer permanently discontinues performance of duties under the license.

i) Each specific licensee shall notify the Department in writing not later than 60 days after principal activities involving the use of radioactive materials, other than sealed sources, at the site or in a separate building or outdoor area have not occurred for a period of 2 years, and the licensee has not decontaminated the site or area.

AGENCY NOTE: Principal activities are those originally authorized on the license for that site or location. For example, licensees could not store radioactive material in an otherwise unused building to avoid end-of-use decommissioning, unless storage was a principal activity for that building.

This notification shall include a description of the location of the site, building or outdoor area and a plan for reclaiming or decommissioning these facilities (including a proposed schedule) for release in accordance with applicable regulations. The notification shall include an evaluation of any changes, if required, to financial assurance arrangements submitted in accordance with 32 Ill. Adm. Code 326. Upon approval of the plan by the Department, implementation shall begin within 6 months and be completed within 24 months after approval (unless the Department approves a different schedule).

AGENCY NOTE: 32 Ill. Adm. Code 340.1310 requires licensees to notify the Department no less than 30 days before vacating or relinquishing possession or control of premises that may have been contaminated with radioactive material.

je) Notification of Bankruptcy

1) Each specific or general licensee shall notify the Department, in writing, immediately following the filing of a voluntary or

involuntary petition for bankruptcy under any Chapter of Title II (Bankruptcy) of the United States Code by or against:

A) The licensee;

B) An entity (as the term is defined in 11 USC ~~U.S.C.~~ 101(14)) controlling he licensee or listing the license or licensee as property of the estate; or

C) An affiliate (as the term is defined in 11 USC ~~U.S.C.~~ 101(2)) of the licensee.

2) This notification shall indicate:

A) The bankruptcy court in which the petition for bankruptcy was filed; ~~and~~

B) The date of the filing of the petition;~~.~~

C) The chapter under which the bankruptcy petition has been filed;

D) The name, address and phone number of the bankruptcy trustee (if a trustee has been named at the time of the notification);

E) Whether the licensed radiation source remains in the possession and control of the licensee and whether any change in possession or control is expected or contemplated;

F) The name of the person in possession and control of the licensed radiation source if the licensee no longer maintains possession or control; and

G) Whether the Illinois Department of Nuclear Safety has been named in the bankruptcy petition either as a creditor or in some other capacity.

k) Recordkeeping Requirements for Potentially Contaminated Areas. Except for areas containing only sealed sources, provided the sources have not leaked, or no contamination remains after any leakage, and except for areas where only radioactive materials with half-lives less than 90 days were used or stored, each specific licensee shall keep:

1) Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment or site, when contamination remains after any cleanup procedures or when there is reasonable likelihood the contaminants may have spread to inaccessible areas (as in the case of possible seepage into porous materials such as concrete). These records must include the location and any known information on identification of involved radionuclides, quantities, chemical and physical forms, and concentrations.

2) Drawings and subsequent modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and of locations of possible inaccessible contamination, such as buried or enclosed pipes, that may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and

locations.

1) Each licensee shall maintain the following records, if applicable:

1) Records of all areas where low-level radioactive wastes were buried, including areas previously authorized by and documented pursuant to 10 CFR 20.2108.

2) Records of the Department-approved cost estimate for the amount certified for reclaiming and the associated reclamation plan, for licensees required by 32 Ill. Adm. Code 326 to secure financial assurance arrangements.

3) All records required to be maintained pursuant to 32 Ill. Adm. Code Chapter II, Subchapters b and d.

m) To lawfully obtain termination for a specific license, each licensee shall meet the termination requirements of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.340 Amendment of Licenses at Request of Licensee

Applications for amendment of a license shall be filed in accordance with Section 330.240 of this Part and shall specify the purpose for which the licensee desires the license to be amended and the grounds for such amendment. ~~The Department shall not issue amendments to licenses that were issued before June 1, 1987, for naturally occurring or accelerator-produced radioactive~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.350 Department Action on Application to Renew and Amend

In considering an application by a licensee to renew or amend the license, the Department will apply the criteria set forth in this Part and 32 Ill. Adm. Code: Chapter II, Subchapters b and d, ~~Sections 330.250, 330.260, 330.270 or 330.280~~ as applicable.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.360 Persons Possessing a License for Source, Byproduct, or Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass on Effective Date of This Part (Repealed)

~~Any person who, on the effective date of this Part, possesses a general or specific license for source, byproduct, or special nuclear material in quantities not sufficient to form a critical mass, issued by the U.S. Nuclear Regulatory Commission, shall be deemed to possess a like license issued under this Part and the Act. Such license shall expire on the date of expiration specified in the U.S. Nuclear Regulatory Commission license.~~

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(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 330.500 Modification and Revocation of Licenses

a) The terms and conditions of all licenses shall be subject to amendment, revision, or modification or the license may be suspended or revoked by reason of amendments to the Act, or by reason of rules, regulations, and orders issued by the Department in accordance with 32 Ill. Adm. Code 200.

b) In accordance with 32 Ill. Adm. Code 200, any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under provisions of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Department to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act, or of the license, or of any rule, regulation, or order of the Department.

~~c) Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 330.900 Reciprocal Recognition of Licenses

a) ~~Licenses of Byproduct, Source and Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass~~

1) Subject to this Part, any person who holds a specific license from the U.S. Nuclear Regulatory Commission or another state ~~an Agreement State~~ is hereby granted a general license to conduct the activities authorized in such licensing document within this State, in areas not under exclusive federal jurisdiction, for a period not in excess of 180 days in any 12-month period, provided that:

A) A current copy of the licensing document is on file with the Department and activities authorized by such document are not limited to specified installations or locations;

B) The out-of-state licensee notifies the Department by telephone, telefacsimile, telegraph or letter prior to engaging in such activities. Such notification shall indicate the location, period and type of proposed possession and use within the State.

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If initial notification was by telephone, ~~telefacsimile~~ or telegraph, the out-of-state licensee shall submit to the Department within 10 days following such notification a letter which contains the above information. Upon receipt from the out-of-state licensee of a written request which contains a schedule of activities to be conducted within Illinois, the Department shall ~~will~~ waive the requirement for additional notifications of activities on that schedule during the 12-month period following the receipt of the initial notification from a person engaging in activities under the general license provided in this Section ~~subsection (a)(1)~~;

C) The out-of-state licensee complies with 32 Ill. Adm. Code: Chapter II and with all the terms and conditions of the licensing document, except any such terms and conditions which may be inconsistent with 32 Ill. Adm. Code: Chapter II;

D) The out-of-state licensee supplies ~~such~~ other information as the Department may request to show compliance with 32 Ill. Adm. Code: Chapter II; and

E) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in this Section ~~subsection (a)(1) above~~ except by transfer to a person:

i) Specifically licensed by the Department, ~~or by~~ the U.S. Nuclear Regulatory Commission or another state to receive such material; or

ii) Exempt from the requirements for a license for such material under Section 330.40(a) of this Part.

2) In addition to ~~Notwithstanding~~ the provisions of subsection (a) of this Section ~~(1) above~~, any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission or another state ~~an Agreement State~~ authorizing the holder to manufacture, transfer, install or service a device described in Section 330.220 (b)(1) of this Part within areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate or service such a device in this State, provided that:

A) Such person shall file a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the radionuclide and activity of radioactive material contained in the device;

B) The device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or another state ~~an Agreement State~~;

C) Such person shall assure that any labels required to be affixed to the device under regulations of the authority that licensed

manufacture of the device bear a statement that "Removal of this label is prohibited"; and

4B) The holder of the specific license shall furnish to each general licensee to whom he transfers or on whose premises he installs such a device a copy of the general license contained in Section 330.220(b) of this Part or in equivalent regulations of the agency having jurisdiction over the manufacture and distribution of the device.

c3) The Department may withdraw, limit or qualify its acceptance of any specific license ~~or equivalent licensing document~~ issued by the U.S. Nuclear Regulatory Commission or another state ~~an Agreement State~~, or any product distributed pursuant to such license ~~licensing document~~, if the Department determines that had the person ~~individual~~ been licensed in Illinois by the Department, the license would have been subject to action under Section 330.500 of this Part or 32 Ill. Adm. Code 310.90.

~~b) Licenses of Naturally Occurring and Accelerator Produced Radioactive Material~~

~~1) Subject to this Part, any person who holds a specific license or equivalent authorization from a licensing State is hereby granted a general license to conduct the activities authorized in such licensing document or equivalent authorization within this State for a period not in excess of 180 days in any 12 month period, provided that:~~

~~A) A current copy of the licensing document or equivalent authorization is on file with the Department and the activities authorized by such document are not limited to specified installations or locations;~~

~~B) The out of state licensee notifies the Department by telephone, telefacsimile, telegraph or letter prior to engaging in such activities. Such notification shall indicate the location, period and type of proposed possession and use within the State. If initial notification was by telephone, telefacsimile or telegraph, the out of state licensee shall submit to the Department within 10 days following such notification a letter which contains the above information. Upon receipt from the out of state licensee of a written request which contains a schedule of activities to be conducted within Illinois, the Department will waive the requirement for additional notifications of activities on that schedule during the 12 month period following the receipt of the initial notification from a person engaging in activities under the general license provided in subsection (a)(1);~~

~~C) The out of state licensee complies with 32 Ill. Adm. Code: Chapter II and with all the terms and conditions of the licensing document or equivalent authorization, except any such terms and conditions which may be inconsistent with 32 Ill. Adm. Code: Chapter II;~~

~~D) The out of state licensee supplies any other information necessary to show compliance with 32 Ill. Adm. Code: Chapter II; and~~

~~E) The out of state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in subsection (b)(1) above except by transfer to a person:~~

~~i) Specifically licensed by the Department or by another licensing State to receive such material; or~~

~~ii) Exempt from the requirements for a license for such material under Section 330.40.~~

~~2) Notwithstanding the provisions of subsection (b)(1) above, any person who holds a specific license or equivalent authorization issued by a licensing State authorizing the holder to manufacture, transfer, install or service a device described in Section 330.220(b)(1) within areas subject to the jurisdiction of the licensing body is hereby granted a general license to install, transfer, demonstrate or service such a device in this State provided that:~~

~~A) Such person shall file a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the radionuclide and activity of radioactive material contained in the device;~~

~~B) The device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license or equivalent authorization issued to such person by a licensing State;~~

~~C) Such person shall assure that any labels required to be affixed to the device under regulations of the authority that licensed or otherwise authorized manufacture of the device bear a statement that "Removal of this label is prohibited"; and~~

~~D) The holder of the specific license or equivalent authorization shall furnish to each general licensee to whom he transfers or on whose premises he installs such a device a copy of the general license contained in Section 330.220(b) or in equivalent regulations of the agency having jurisdiction over the manufacture and distribution of the device.~~

~~3) The Department may withdraw, limit or qualify its acceptance of any specific license or equivalent authorization issued by a licensing State, or any product distributed pursuant to such license or equivalent authorization, if the Department determines that had the out of state licensee been licensed by Illinois, the~~

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~~licensee's license would have been subject to action under Section 330.500 or 32 Ill. Adm. Code 310.90.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

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Section 330.APPENDIX C Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release ~~Groups of Medical uses of Radioactive Materials (Repealed)~~

Radioactive Material	Release Fraction	Quantity (GBq)	Quantity (Ci)
Actinium-228	0.001	148,000	4,000
Americium-241	0.001	74	2
Americium-242	0.001	74	2
Americium-243	0.001	74	2
Antimony-124	0.01	148,000	4,000
Antimony-126	0.01	222,000	6,000
Barium-133	0.01	370,000	10,000
Barium-140	0.01	1,110,000	30,000
Bismuth-207	0.01	185,000	5,000
Bismuth-210	0.01	22,200	600
Cadmium-109	0.01	37,000	1,000
Cadmium-113	0.01	2,960	80
Calcium-45	0.01	740,000	20,000
Californium-252	0.001	333	9 (20mg)
Carbon-14 (Non-CO[2])	0.01	1,850,000	50,000
Cerium-141	0.01	370,000	10,000
Cerium-144	0.01	11,100	300
Cesium-134	0.01	74,000	2,000
Cesium-137	0.01	111,000	3,000
Chlorine-36	0.5	3,700	100
Chromium-51	0.01	11,100,000	300,000
Cobalt-60	0.001	185,000	5,000
Copper-64	0.01	7,400,000	200,000
Curium-242	0.001	2,220	60
Curium-243	0.001	110	3
Curium-244	0.001	148	4
Curium-245	0.001	74	2
Europium-152	0.01	18,500	500
Europium-154	0.01	14,800	400
Europium-155	0.01	111,000	3,000
Gadolinium-153	0.01	185,000	5,000
Gold-198	0.01	1,110,000	30,000
Hafnium-172	0.01	14,800	400
Hafnium-181	0.01	259,000	7,000
Holmium-166m	0.01	3,700	100
Hydrogen-3	0.5	740,000	20,000
Indium-114m	0.01	37,000	1,000
Iodine-125	0.5	370	10
Iodine-131	0.5	370	10
Iridium-192	0.001	1,480,000	40,000
Iron-55	0.01	1,480,000	40,000

Iron-59	0.01	259,000	7,000
Krypton-85	1.0	222,000,000	6,000,000
Lead-210	0.01	296	8
Manganese-56	0.01	2,220,000	60,000
Mercury-203	0.01	370,000	10,000
Molybdenum-99	0.01	1,110,000	30,000
Neptunium-237	0.001	74	2
Nickel-63	0.01	740,000	20,000
Niobium-94	0.01	11,100	300
Phosphorus-32	0.5	3,700	100
Phosphorus-33	0.5	37,000	1,000
Polonium-210	0.01	370	10
Potassium-42	0.01	333,000	9,000
Promethium-145	0.01	148,000	4,000
Promethium-147	0.01	148,000	4,000
Ruthenium-106	0.01	7,400	200
Samarium-151	0.01	148,000	4,000
Scandium-46	0.01	111,000	3,000
Selenium-75	0.01	370,000	10,000
Silver-110m	0.01	37,000	1,000
Sodium-22	0.01	333,000	9,000
Sodium-24	0.01	370,000	10,000
Strontium-89	0.01	111,000	3,000
Strontium-90	0.01	3,330	90
Sulfur-35	0.5	33,300	900
Technetium-99	0.01	370,000	10,000
Technetium-99m	0.01	14,800,000	400,000
Tellurium-127m	0.01	185,000	5,000
Tellurium-129m	0.01	185,000	5,000
Terbium-160	0.01	148,000	4,000
Thulium-170	0.01	148,000	4,000
Tin-113	0.01	370,000	10,000
Tin-123	0.01	111,000	3,000
Tin-126	0.01	37,000	1,000
Titanium-44	0.01	3,700	100
Vanadium-48	0.01	259,000	7,000
Xenon-133	1.0	33,300,000	900,000
Yttrium-91	0.01	74,000	2,000
Zinc-65	0.01	185,000	5,000
Zirconium-93	0.01	14,800	400
Zirconium-95	0.01	185,000	5,000
Any other beta-gamma emitter	0.01	370,000	10,000
Mixed fission products	0.01	37,000	1,000
Mixed corrosion products	0.01	370,000	10,000
Contaminated equipment, beta-gamma	0.001	370,000	10,000
Irradiated material, solid noncombustible	0.01	37,000	1,000
Mixed radioactive waste, beta-gamma	0.01	37,000	1,000
Packaged mixed waste,2 beta-gamma	0.001	370,000	10,000
Any other alpha emitter	0.001	74	2
Contaminated equipment, Alpha	0.0001	740	20
Packaged waste, alpha2	0.0001	740	20

For combinations of radioactive materials, the licensee is required to consider whether an emergency plan is needed if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material above exceeds one.

Waste packaged in Type B containers does not require an emergency plan.

(Source: Added at 24 Ill. Reg. _____, effective _____)

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Section 330.APPENDIX G Financial Surety Arrangements (Section 330.250 (c)(1)(D) (Repealed)

~~a) Surety--Bond.--If--an--applicant--or-licensee-elects-to-satisfy-surety requirements-of-Section-330.250(c)(1)-by-filing-a--surety--bond,--that bond-shall-conform-to-the-following-requirements:~~

~~1) The-surety-company-issuing-the-bond-shall,-at-a-minimum,-be-among those--listed--as--acceptable--sureties--or-reinsurers-on-federal bonds-in--Circular--570--of--the--U.S.--Department--of--Treasury, entitled--"Surety-Companies-Acceptable-On-Federal-Bonds",-52-Fed. Reg.-24601,-revised-as-of-July-1,-1987;~~

~~2) The-wording-of-the--surety--bond--shall--contain--the--provisions specified---in---subsection---(1)---of--Section--330.Appendix--H. Additional-conditions-may-be-agreed-to-between-the--applicant--or licensee-and-the-surety-company-so-long-as-no-requirement-of-this Part-nor-other-required-provision-is-avoided-or-altered;~~

~~3) The-surety-bond-guarantees-that:~~

~~A) Funds--will-be-available-to-perform-reclaiming-in-accordance with-32-Ill.-Adm.-Code-340.Appendix-A-to-assure--health--and safety--from-radiation-hazards-and-other-requirements-of-the license--for--the--facility---whenever---required---by---the Department;~~

~~B) Surety---waives--notification--of--amendments--to--licenses, applicable-laws,-statutes,-rules-and-regulations-and--agrees that--no--such--amendment--shall--in--any--way-alleviate-its obligation-on-the-bond;-and~~

~~C) The-licensee-will--provide--alternate--financial--surety--as specified--in--Section-330.250(c)(1)-and-obtain-the-Division Chief's-written-approval-of-the-assurance-provided-within-90 days-of-receipt-by-both-the-licensee-and-the-Division--Chief of-a-notice-of-cancellation-of-the-bond-from-the-surety;~~

~~4) Under-the-terms-of-the-bond-the-surety-shall-become-liable-on-the bond--obligation-when-the-licensee-fails-to-perform-as-guaranteed by-the-bond.--Following-a-determination--by--the--Division--Chief that--the--licensee--has-failed-to-so-perform,-under-the-terms-of the-bond-the-surety-shall-perform-reclaiming-to-the--satisfaction of--the--State--as--guaranteed--by--the-bond-or-shall-forfeit-the amount-of-the-penal-sum,-as-provided-in-Section-330.250(c)(1)(C);~~

~~5) The-penal-sum-of-the-bond-shall-be-in-an-amount-at-least-adequate to-provide-the-necessary-financial-surety;~~

~~6) Under-the-terms-of-the-bond,-the-surety-may-cancel--the--bond--by sending--notice--of-cancellation-by-certified-mail-return-receipt requested--to--the--licensee---and---to---the---Division---Chief. Cancellation--shall--not--occur,--however,--during--the--180-days beginning-on-the-date-of-receipt-of-the-notice-of-cancellation-by both-the-licensee-and-the-Division-Chief,--as--evidenced--by--the return-receipts;~~

~~7) The--surety--shall--not--be--liable--for--the--deficiency--in-the performance-of-reclaiming-after-the-Division-Chief-has-determined satisfactory-reclaiming-has-occurred;~~

~~8) Licensee-may-terminate-the-bond-by-sending-written-notice-to--the surety,--provided,--however,--that--no--such--notice-shall-become effective-until-the-surety-receives--written--authorization--from the-Division-Chief-for-the-termination-of-the-bond.~~

~~b) Personal--Bond--Supported--by--a-better-of-Credit.---If-an-applicant-or licensee--elects--to--satisfy--the--surety--requirements--of---Section 330.250(c)(1)-by-filing-his-personal-performance-guarantee-accompanied by--collateral-in-the-form-of-an-irrevocable-standby-letter-of-credit, he-shall-guarantee-funds-to-perform-reclaiming-in-accordance--with--32 Ill.--Adm.-Code-340.Appendix-A-for-protection-of-health-and-safety-and other-requirements-of-the-license-for-the-facility.--In-addition,--the irrevocable--standby--letter-of-credit-supporting-this-guarantee-shall conform-to-the-following-requirements:~~

~~1) The-institution-issuing-the-letter-of-credit-shall-be--an--entity which--has--the--authority--to--issue-letters-of-credit-and-whose letter-of-credit-operations--are--regulated--and--examined--by--a Federal-or-Illinois-agency;~~

~~2) The--wording-of-the-letter-of-credit-shall-contain-the-provisions specified--in--subsection--(a)(2)--of--Section--330.Appendix---H. Additional--conditions--may-be-agreed-to-between-the-applicant-or licensee-and-the-issuing-institution-so-long-as-no-requirement-of this-Part-nor-required-provision-is-avoided-or-altered;~~

~~3) The-letter-of-credit-shall-be-accompanied-by-a--letter--from--the licensee--referring--to--the--letter-of-credit-by-number,-issuing institution---and----date----and----providing----the----following information:--the-radioactive-material-license-number(s),-name(s) and--address(es)-of-the-facility(ies)-and-the-amount-of-funds-for each-license-assured-for-reclaiming-of-the-facility(ies)--by--the letter-of-credit;~~

~~4) The-letter-of-credit-shall-be-irrevocable-and-issued-for-a-period of--at-least-1-year.--The-letter-of-credit-shall-provide-that-the expiration-date-shall-be-automatically-extended-for-a--period--of at--least--1--year--unless,--at-least-180-days-before-the-current expiration--date,--the--issuing--institution--notifies--both--the licensee-and-the-Division-Chief-by-certified-mail-of--a--decision not--to--extend-the-expiration-date.--Under-the-terms-of-a-letter of-credit,-the-180-days-will-begin-on--the--date--when--both--the licensee--and--the--Division--Chief--have-received-the-notice,-as evidenced-by-the-return-receipts;~~

~~5) The-letter-of-credit-shall--be--issued--in--an--amount--at--least adequate-to-provide-the-necessary-financial-surety;-and~~

~~6) The--Director-may-draw-on-the-letter-of-credit-upon-forfeiture-as provided-in-Section-330.250(c)(1)(C).--The-Director-may-also-draw on-the-letter-of--credit--if--the--licensee--does--not--establish alternate--financial--surety-as-specified-in-this-Part-and-obtain written-approval-of-such-alternate-assurance--from--the--Division**

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

Chief--within--90-days-after-receipt-by-both-the-licensee-and-the Division-Chief-of-a-notice-from-the-issuing-institution--that--it has-decided-not-to-extend-the-letter-of-credit-beyond-the-current expiration--date.---The-Division-Chief-shall-delay-the-drawing-if the-issuing-institution-grants-an-extension-of-the--term--of--the credit.---During--the-last-30-days-of-any-extension,-the-Director will-draw-on-the-letter-of-credit-if-the-licensee-has--failed--to provide--alternate--financial--surety--as--specified--in--Section 330.250(c)(1),--and--obtain--written-approval-of-such-surety-from the-Division-Chief.

c) Personal-Bond-Supported-by-Insurance.--If--an--applicant--or--licensee elects--to-satisfy-the-surety-requirements-of-Section-330.250(c)(1)-by filing-his-personal-performance-guarantee-accompanied-by-collateral-in the-form-of-an-insurance-policy,-he-shall-guarantee--funds--sufficient to---perform---reclaiming---in--accordance--with--32--Ill.--Adm.--Code 340,Appendix--A--for--protection--of--health--and--safety--and---other requirements--of--the--licensee--for--the--facility.--In-addition,-the insurance-policy--supporting--this--guarantee--shall--conform--to--the following-requirements:

1) The--insurer--shall--be--licensed--to--transact--the--business-of insurance-or-be-eligible-to-provide-insurance--as--an--excess--or surplus-lines-insurer;

2) The--insurance--policy--shall--be-accompanied-by-a-certificate-of insurance-in-which-the-wording-contains-the-provisions--specified in---subsection---(3)--of--Section--330.Appendix--H.---Additional conditions-may-be-agreed-to-between-the-applicant-or-licensee-and the-insurer-so-long-as-no-requirement-of-this-Part--nor--required provision-is-avoided-or-altered;

3) The-insurance-policy-shall-be-for-a-face-amount-at-least-adequate to--provide--the--necessary--financial--surety.---The--term-"face amount"-means-the-total-amount-the-insurer-is--obligated--to--pay under--the--policy.---Actual--payments--by--the-insurer-shall-not change-the-face-amount,-although-the-insurer's--future--liability shall-be-lowered-by-the-amount-of-the-payments;

4) The-insurance-policy-shall-guarantee-that-funds-will-be-available for--reclaiming--the-facility-whenever-reclaiming-is-necessary-as determined-by-the-Division-Chief;

5) Upon-forfeiture--of--financial--surety--as--provided--in--Section 330.250(c)(1)(C),--the--Director--shall-direct-the-insurer-to-pay the-full-face--amount--to--the--State--as--specified--in--Section 330.250(c)(1)(C);

6) The--licensee--shall-maintain-the-policy-in-full-force-and-effect until-license-termination-or-substitution-of-alternate--financial surety-as-specified-in-Section-330.250(c)(1).--Failure-to-pay-the premium--without--substitution--of--alternate-financial-surety-as specified-in-Section-330.250(c)(1)-shall-constitute--a--violation of--this--Part.--Such-violation-shall-be-considered-to-begin-upon receipt-by-the-Division-Chief-of-a-notice-of-future-cancellation,

termination-or-failure-to-renew-due-to-nonpayment-of-the-premium, rather-than-upon-the-date-of-expiration;

7) The-policy-shall-provide--that--the--insurer--shall--not--cancel, terminate--or--fail-to-renew-the-policy-except-for-failure-to-pay the-premium.--The-automatic-renewal-of-the--policy--shall,--at--a minimum,--provide--the--insured-with-the-option-of-renewal-at-the face-amount-of-the-expiring-policy.--If-there-is-a-failure-to-pay the-premium,-the-insurer-may-elect-to-cancel,-terminate--or--fail to--renew--the--policy-by-sending-notice-by-certified-mail-to-the licensee-and-the-Division-Chief.---Cancellation,--termination--or failure--to--renew--may--not--occur,-however,-during-the-180-days beginning-with-the-date-of-receipt-of--the--notice--by--both--the Division--Chief--and--the--licensee,--as--evidenced-by-the-return receipts.--Cancellation,-termination-or-failure--to--renew--shall not-occur-and-the-policy-shall-remain-in-full-force-and-effect-in the-event-that-on-or-before-the-date-of-expiration:

A) The-Division-Chief-considers-the-facility-abandoned;

B) The-license-is-terminated-or-revoked-or-renewal-is-denied;

C) Closure--is--ordered-by-the-Director-or-a-court-of-competent jurisdiction;

D) The--licensee--is--named--as--debtor--in--a---voluntary---or involuntary---proceeding---under---Title---11,---U.S.---Code (Bankruptcy);-or

E) The-premium-due-is-paid.

8) Commencing--on--the-date-that-liability-to-make-payments-pursuant to-the-policy--accrues,--the--insurer--will--thereafter--annually increase--the--face-amount-of-the-policy.--Such-increase-shall-be equivalent-to-the-face-amount-of-the-policy,--less--any--payments made,--multiplied--by--an--amount-equivalent-to-85-percent-of-the most-recent-investment-rate-or--of--the--equivalent--coupon-issue yield--announced--by--the--U.S.--Treasury--for--26-week--Treasury securities;-and

9) Any--provision--of--the--policy--inconsistent--with--any--or--all regulations--in--this--Part--will--be--deemed--to--be--amended-to eliminate-such-inconsistency.

d) Personal-Bond-Supported-by-Securities.--If-an--applicant--or--licensee elects--to-satisfy-the-surety-requirements-of-Section-330.250(c)(1)-by filing-his-personal-performance-guarantee-accompanied-by-collateral-in the-form-of-securities,-he-shall-guarantee-sufficient-funds-to-perform reclaiming-in-accordance-with-32-Ill.-Adm.--Code--340,Appendix--A--for protection--of--health--and--safety--and--other--requirements--of--the license(s)---for--the--facility(ies).---In--addition,--the--securities supporting-this-guarantee-shall-be-fully-registered--as--to--principal and--interest--in--such--manner--as--to--identify--the--State--and-the Department-as-holder-of-such--collateral--and--also--identifying--that person-filing-such-collateral.--The-securities-shall-be-accompanied-by a--certificate--whose--wording--contains--the--provisions-specified-in subsection-(4)-of-Section-330.Appendix-H,-identifying--the--State--and

the Department as holder of such collateral and to also identify that person filing such collateral. These securities shall have a current market value at least adequate to provide the necessary financial surety and shall be included among the following types:

1) Negotiable United States Treasury securities assigned irrevocably to the State; or

2) Negotiable general obligation municipal or corporate bonds which have at least an "A" rating by Moody's and/or Standard and Poor's rating services and which are assigned irrevocably to the State.

e) Personal Bond Supported by Certificate of Deposit. If an applicant or licensee elects to satisfy the surety requirements of Section 330.250(c)(1) by filing his personal performance guarantee accompanied by a Certificate of Deposit in an amount at least adequate to provide necessary financial surety the irrevocable certificate of deposit supporting this guarantee shall conform to the following requirements:

1) The institution issuing the certificate of deposit shall be an entity which has the authority to issue certificates of deposit and whose certificate of deposit operations are regulated and examined by a Federal or State agency;

2) The certificate of deposit shall be accompanied by a letter from the licensee referring to the certificate of deposit by number, issuing institution and date and providing the following information:

A) The radioactive material license number(s), name(s) and address(es) of the facility(ies) and the amount of funds assured for reclaiming of the facility(ies) by the certificate of deposit. Such certificate of deposit shall also include a statement signed by an officer of the issuing financial institution which waives all rights of lien which the institution has or might have against the certificate;

B) This letter shall contain the applicable provisions specified in subsection (5) of Section 330.Appendix H. Additional provisions may be agreed to between the applicant or licensee and the issuing institution so long as no requirement of this Part or required provision is avoided or altered;

3) The certificate of deposit shall be assigned irrevocably to the State and issued for a period of at least 1 year. The certificate of deposit shall provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Division Chief by certified mail of a decision not to extend the expiration date. Under the terms of the certificate of deposit, the 180 days will begin on the date when both the licensee and the Division Chief have received the notice, as evidenced by the return receipts; and

4) The Director may draw on the certificate of deposit upon

forfeiture as provided in Section 330.250(c)(1)(C). The Director will also draw on the certificate of deposit if the licensee does not establish alternate financial surety as specified in this Part and obtain written approval of such alternate assurance from the Division Chief within 90 days after receipt by both the licensee and the Division Chief of a notice from the issuing institution that it has decided not to extend the certificate of deposit beyond the current expiration date. The Director may delay the drawing if the issuing institution grants an extension of the term of the certificate of deposit. During the last 30 days of any such extension, the Director will draw on the certificate of deposit if the licensee has failed to provide alternate financial surety as specified in this Part and obtain written approval of such surety from the Division Chief.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

Section 330.APPENDIX H Wording of Financial Surety Arrangements (Section 330.250(c)(1)(E)) (Repealed)

~~1) A surety bond guaranteeing funds for reclaiming, as specified in subsection (a) of Section 330.Appendix G, shall contain the following provisions except that the instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:~~

~~SURETY BOND~~

~~Date bond executed: ----------~~

~~Effective date: ----------~~

~~Principal: (legal name and business address of applicant or licensee)~~

~~Type of organization: (insert "individual," "joint venture," "partnership" or "corporation")~~

~~State of incorporation: ----------~~
~~Surety(ies): (Name(s) and business address(es))~~

~~License Number(s), name, address and reclaiming cost for each facility guaranteed by this bond: ----------~~

~~Total penal sum of bond: $--------~~

~~Surety's bond number: --------~~

~~KNOW ALL PERSONS BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto are firmly bound to the Illinois Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704, (hereinafter called Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.~~

~~WHEREAS said Principal is required, under the Radiation Protection Act of 1990, as amended, to have a license in order to receive, possess, store and use radioactive material at the facility identified above; and~~

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

~~WHEREAS said Principal is required to provide financial assurance for reclaiming as a condition of the license;~~

~~NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform reclaiming, whenever required to do so, of each facility for which this bond guarantees funds for reclaiming, to the satisfaction of the Director, Illinois Department of Nuclear Safety, in accordance with acceptable practices for protection of health and safety pursuant to all applicable laws, statutes, rules and regulations, as such laws, statutes, rules and regulations may be amended.~~

~~OR, if the Principal shall provide alternate financial assurance as specified in Section 330.250(c)(1)(H), and obtain the written approval of such assurance from the Chief, Division of Radioactive Materials (hereinafter called the Division Chief), within 90 days after the date notice of cancellation is received by both the Principal and the Division Chief from the surety(ies), then this obligation shall be null and void; otherwise, it is to remain in full force and effect.~~

~~The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.~~

~~Upon notification by the Division Chief that the Principal has been found in violation of the reclaiming requirements of the Department, for a facility for which this bond guarantees funds for performance of reclaiming, the Surety(ies) shall forfeit the reclaiming cost amount guaranteed for the facility to the Department as directed by the Director.~~

~~Upon notification by the Division Chief that the Principal has failed to provide alternate financial assurance as specified in Section 330.250(c)(1)(H), and obtain written approval of such assurance from the Division Chief during the 30 days following receipt by both the Principal and the Director of a notice of cancellation of the bond, the Surety(ies) shall forfeit funds in the amount guaranteed for the facility(ies) to the Department as directed by the Director.~~

~~The Surety(ies) hereby waive(s) notification of amendments to licenses, applicable laws, statutes, rules and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.~~

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The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the applicant or licensee and to the Division Chief, provided, however, that cancellation shall not occur during the 180 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Division Chief, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Division chief.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this SURETY BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

PRINCIPAL

(Signature(s))
(Name(s))
(Title(s))
Corporate seal:

CORPORATE SURETY(IES)

(Name and address)
State of incorporation: ----------
Liability limit: $----------

(Signature(s))
(Name(s))
(Title(s))
Corporate seal:

(For every co-surety, provide signature(s), corporate seal and other information in the same manner as for the Surety above.)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

Bond premium: $----------

2) A letter of credit, as specified in subsection (b) of Section 330.Appendix G, shall contain the following provisions except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Chief Date: --------
Division of Radioactive Materials
Illinois Department of Nuclear Safety

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. ------ in your favor, at the request and for the account of (applicant's or licensee's name and address) up to the aggregate amount of (in words) U.S. dollars $--------, available upon presentation of:

A) your sight draft, bearing reference to this Letter of Credit No. -------, and

B) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Illinois Radiation Protection Act of 1990, as amended."

This letter of credit is effective as of (date) and shall expire on (date at least 1 year later), but such expiration date shall be automatically extended for a period of (at least 1 year) on (date) and on each successive expiration date, unless, at least 180 days before the current expiration date, we notify both you and (applicant's or licensee's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation or your sight draft for 180 days after the date of receipt by both you and (licensee's name), as shown on the signed return receipts.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall forfeit the amount of the draft to the State of Illinois in accordance with your instructions.

(Signature(s) and title(s) of official(s) of issuing institution)
(Date)

This credit is subject to (the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, or the Uniform Commercial Code).

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NOTICE OF PROPOSED AMENDMENTS

3) A certificate of insurance, as specified in subsection (c) of Section 330.Appendix G, shall contain the following provisions except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

CERTIFICATE OF INSURANCE FOR RECLAIMING

Name and Address of Insurer
(herein called the "Insurer"): ----------
Name and Address of Insured
(herein called the "Insured"): ----------
Facilities covered: (list for each facility: The License Number, name, address and the amount of insurance for reclaiming (these amounts for all facilities covered shall total the face amount shown below)).

Face Amount: ----------
Policy Number: ----------
Effective Date: ----------

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial surety for reclaiming the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of subsection (c) of Section 330.Appendix G, as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulation is hereby amended to eliminate such inconsistency.

Whenever requested by the Chief, Division of Radioactive Materials, Illinois Department of Nuclear Safety, the Insurer agrees to furnish to the Chief, Division Radioactive Materials, a duplicate original of the policy listed above, including all endorsements thereon.

(Authorized signature for Insurer)
(Name of person signing)
(Title of person signing)
Signature of witness or notary: ----------
(Date)

4) A personal bond supported by securities, as specified in subsection (d) of Section 330.Appendix G, shall be accompanied by a document which contains the following provisions except that the instructions in parentheses are to be replaced with relevant information and the parentheses deleted:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

ASSIGNMENT OF SECURITIES

Pursuant to 32 Ill. Adm. Code 330.250(c), (licensee or applicant's name) hereby transfers (----------Dollars) ($----------) in negotiable United States Treasury Securities unto Illinois Department of Nuclear Safety, including interest which thereby accrues, represented by Certificate No. (------), herewith and does hereby agree that such securities shall be used for purposes of ensuring reclamation of (name of facility----------) site.

5) A certificate of deposit, as specified in subsection (e) of Section 330.Appendix G, shall contain the following provisions except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Name and address of Bank

Certificate of Deposit ------, 19----
No. ---------- $------

(licensee name and address) has deposited not subject to check (----------) Dollars ($--------) payable to the order of Illinois Department of Nuclear Safety, Chief, Division of Radioactive Materials, (------) days after notice in writing of intended withdrawal shall have been given to the bank and upon surrender of this certificate properly endorsed, with interest as herein provided.

This certificate shall be automatically renewed at maturity for successive periods of 1 year each. The bank reserves the right not to renew this certificate at the expiration of any 1 year's period upon mailing to the payee, at least 180 days prior to the expiration date, a notice of its election not to renew the certificate.

(Cashier)

Dated ----------, 19----.

(licensee or Applicant)

Signature Guaranteed
By:----------
----------(Title)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

~~ASSIGNMENT OF CORPORATE OR MUNICIPAL BOND~~

~~Pursuant to 32 Ill. Adm. Code 330.250(c), (licensee or applicant's name) hereby transfers to Illinois Department of Nuclear Safety bonds of the (Corporation or Municipality's name) for (----------) Dollars ($----------), No. (----------) herewith standing in the name of the undersigned on the books of said (Corporation or Municipality) and does hereby agree that such bonds shall be used for purposes of ensuring reclaiming of (name of facility) site.~~

~~Dated----------, 19----.~~

~~----------~~
~~----------~~
~~(Licensee or Applicant)~~
~~Signature Guaranteed~~
~~By----------~~
~~----------(Title)~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

POLLUCTION CONTROL BOARD

NOTICE OF PROPOSAL FOR PUBLIC COMMENT

1) Heading of the Part: Vehicle Scrappage Activities

2) Code Citation: 35 Ill. Adm Code 207

3)

Section Numbers	Proposed Action:
207.100	New
207.102	New
207.104	New
207.200	New
207.300	New
207.302	New
207.304	New
207.306	New
207.308	New
207.310	New
207.312	New
207.314	New
207.316	New
207.318	New
207.400	New
207.402	New
207.404	New
207.406	New
207.408	New
207.410	New
207.500	New
207.502	New
207.504	New
207.506	New
207.508	New
207.510	New
207.512	New
207.600	New
207.602	New
207.604	New
207.606	New
207.608	New
207.610	New
207.612	New
207.700	New
207.702	New
207.800	New
207.802	New
207.804	New
207.806	New
207.900	New
207.902	New
207.904	New

POLLUCTION CONTROL BOARD

NOTICE OF PROPOSAL FOR PUBLIC COMMENT

4) Statutory Authority: The Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-30(d) (1998)] and the Illinois Environmental Protection Act. [415 ILCS 5/5, 10, 27, 28 and 39 (1998)].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking proposes a new Part at 35 Ill. Adm. Code 207 to establish a voluntary program to allow persons that wish to engage in vehicle scrappage activities to obtain emissions reduction credits. Vehicle scrappage activities can result in reduced emissions of air pollutants by removing older, higher emitting vehicles from service before the vehicle's natural retirement date. The proposed vehicle scrappage program achieves emissions reductions based on the difference between emissions that would have been generated from a retired vehicle over its remaining useful life and the emissions that will be generated by a replacement vehicle, if any, for this period.

The rulemaking proposal was filed January 6, 2000 by the Illinois Environmental Protection Agency pursuant to Section 13B-30(d) of the Vehicle Emissions Inspection Law of 1995 (Vehicle Emissions Law). 625 ILCS 5/13B-30(d) (1998). Section 13B-30(d) of the Vehicle Emissions Law states in part that Section 27(b) of the Act [415 ILCS 5/27(b) (1998)] and the rulemaking provisions of the Administrative Procedure Act [5 ILCS 100/1-1 et seq.(1998)] "shall not apply to rules adopted by the Board under this subsection (d)." 625 ILCS 5/13B-30(d) (1998). Accordingly, the Board will not request that the Department of Commerce and Community Affairs conduct an economic impact study of the proposed rule pursuant to Section 27(b) of the Act. Nor will the Board submit the proposed rule for first or second notice pursuant to Section 5-40 of the Administrative Procedure Act [5 ILCS 100/5-40 (1998)]. The Board has, however, submitted the proposal for public comment for publication in the *Illinois Register* and the Board will hold at least two public hearings as described in Item 11. The Board must adopt the rule within 180 days of the Illinois Environmental Protection Agency's filing of the proposal

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain Incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed Part is authorized by the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-30(d) (1998)], which directs the Illinois Environmental Protection Agency to propose "procedures, practices, and performance requirements for operation of vehicle scrappage programs by any person that wants to receive credits for certain emissions reductions from these vehicles." This section of

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the Vehicle Emissions Law also requires the Pollution Control Board to adopt rules for vehicle scrappage programs.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R00-16 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

and

Bonnie Sawyer
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

Questions regarding this proposal may be directed Marie E. Tipsord at 312-814-4925.

In addition two public hearings will be held as follows:

First Hearing March 1, 2000
10:00 a.m.
Room 403
600 S. Second Street
Springfield, Illinois

Second Hearing March 24, 2000
10:00 a.m.
Room 9-040
100 W. Randolph
James R. Thompson Center
Chicago, Illinois

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Participation in the proposed vehicle scrappage program under the rule is voluntary. In this respect, the proposed rule does not impact any person unless that person elects to engage in such a program.

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B) Reporting, Bookkeeping or other procedures required for compliance: A person that elects to engage in vehicle scrappage activities to receive emissions credits will be required to submit a plan to Illinois Environmental Protection Agency for approval, maintain documentation to ensure that the scrappage activities are in accordance with the rule and submit claims to Illinois Environmental Protection Agency for recognition of creditable emissions reductions.

C) Types of professional skills necessary for compliance: No professional skills are necessary but training is required of individuals that wish to manage vehicle scrappage activities.

13) Regulatory Agenda on which this rulemaking was summarized: January 1998 and July 1999

The full text of the Proposed Rule begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: ALTERNATIVE REDUCTION PROGRAMS

PART 207
VEHICLE SCRAPPAGE ACTIVITIES

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207.610 Supplemental Notices Pursuant to Approved Vehicle Scrappage Plans
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SUBPART H: VEHICLE SCRAPPAGE PLAN FEES

Section
207.800 Vehicle Scrappage Plan and Plan Renewal Fees
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207.804 Non-Refundability of Fees and Credits for Overpayments
207.806 Fee Exemption for Agency Sponsored Vehicle Scrappage Projects or Programs

SUBPART I: COMPLIANCE PROVISIONS

Section
207.900 Enforcement
207.902 Agency Right of Inspection
207.904 Agency Right to Revoke Approval of Plan

AUTHORITY: Implementing and authorized by the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-30(d)] and the Illinois Environmental Protection Act

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[415 ILCS 5/5, 10, 27, 28 and 39].

SOURCE: Adopted in R00-16 at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 207.100 Purpose

a) This Part sets forth the procedures and performance requirements to be followed when conducting vehicle scrappage activities within the State of Illinois for the purpose of receiving Creditable Emissions Reductions (CERs).
b) This Part is designed to achieve the following objectives:
   1) Provide an option for regulated sources and interested parties to achieve emissions reductions;
   2) Ensure compatibility with applicable guidance for vehicle scrappage activities developed by the United States Environmental Protection Agency (USEPA);
   3) Provide vehicle scrappage training to help ensure that vehicle scrappage activities conducted to generate CERs are only managed by qualified individuals; and
   4) Strike an equitable balance among various parties that may be interested in vehicle scrappage, including regulated sources, potential sponsors of scrappage activities, owners of vehicles eligible to be scrapped, vehicle collectors, automotive rebuilders and other interest groups.

Section 207.102 Definitions

Unless otherwise specified in this Part and unless a different meaning of a term is clear from its context, the definitions for the terms used in this Part shall be the same as those found in the Environmental Protection Act [415 ILCS 5/1 et seq.] or in 35 Ill. Adm. Code Parts 211 or 240. As used in this Part, the following terms have the meanings set forth below:

"Creditable Emissions Reductions" or "CER" means a unit of emissions reductions based on vehicle retirement activities in accordance with an Agency-approved vehicle scrappage plan.

"Eligible vehicle" means any vehicle that qualifies for retirement in a vehicle scrappage project or program as specified in Section 207.304 of this Part.

"Emissions-related parts" means the engine and other vehicle parts involved with fuel intake, combustion, exhaust, or the control of the evaporation of fuel, which have a direct relation to the type or quantity of emissions produced by the vehicle.

"IM240 Test" means a transient loaded mode exhaust test procedure, as specified in 35 Ill. Adm. Code 276, designed to measure mass quantities of vehicle exhaust emissions of hydrocarbons, carbon monoxide, carbon dioxide and oxides of nitrogen generated during vehicle operation on a chassis dynamometer.

"Light-duty truck 1" means a motor vehicle rated at 6000 pounds maximum gross vehicle weight rate (GVWR) or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty truck 2" means a motor vehicle rated between 6001 and 8500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light-duty vehicle" means a passenger car or passenger car derivative capable of seating twelve passengers or fewer.

"Non-emissions-related parts" means vehicle parts not involved with fuel intake, combustion or exhaust, or the control of evaporation of fuel, and which do not have a direct relation to the type or quantity of emissions produced by the vehicle.

"Recognized repair technician" means a person professionally engaged in vehicle repair, employed by a going concern whose purpose is the repair of vehicles, or possessing a nationally recognized certification for emissions-related diagnosis and repair.

"Vehicle retirement" means the permanent rendering of an eligible vehicle into an inoperable condition, in accordance with this Part and a vehicle scrappage plan.

"Vehicle scrappage" means activities related to the retirement of eligible vehicles for the purpose of receiving CERs under this Part.

"Vehicle scrappage manager" means a natural person who satisfies all qualification requirements specified in Section 207.700 of this Part and is eligible to conduct vehicle scrappage activities pursuant to this Part.

"Vehicle scrappage plan" means a type of plan that satisfies all applicable requirements of Subpart F of this Part and has been approved or sponsored by the Agency under which the vehicle scrappage activities for the applicable vehicle scrappage project or program must be conducted.

"Vehicle scrappage program" means periodic or ongoing vehicle scrappage activities conducted in accordance with the applicable requirements of this Part and a vehicle scrappage plan.

"Vehicle scrappage project" means a one-time vehicle scrappage event conducted in accordance with the applicable requirements of this Part and a vehicle scrappage plan.

"Vehicle scrappage sponsor" means any interested person or entity that satisfies all of the requirements of Section 207.702 of this Part and financially underwrites a vehicle scrappage project or program conducted under this Part.

Section 207.104 Severability

If any Section, subsection, sentence or clause of this Part is judged invalid, such adjudication shall not affect the validity of this Part as a whole or any Section, subsection, sentence or clause thereof not judged invalid.

SUBPART B: APPLICABILITY

Section 207.200 Applicability

This Part applies to vehicle scrappage activities in the State of Illinois conducted to receive CERs and to all persons or entities that are, or desire to be, vehicle scrappage managers, sponsors, or other participants.

SUBPART C: REQUIREMENTS OF VEHICLE SCRAPPAGE PROJECTS AND PROGRAMS

Section 207.300 Scope

Each vehicle scrappage project or program conducted pursuant to the provisions of this Part must satisfy all of the requirements specified in this Subpart.

Section 207.302 Vehicle Scrappage Sponsors and Managers

Each vehicle scrappage project or program shall be financially underwritten by a vehicle scrappage sponsor who satisfies all of the requirements of Section 207.702 of this Part, and shall be directed by a vehicle scrappage manager who satisfies all of the requirements of Section 207.700 of this Part.

Section 207.304 Vehicle Eligibility

Each vehicle that is retired in a vehicle scrappage project or program shall satisfy the following criteria:

a) Be a light duty vehicle, light-duty truck 1 or light-duty truck 2;
b) Have been continuously registered with the Illinois Secretary of State for the 12 month period immediately prior to the date of its sale for use in a vehicle scrappage project or program;
c) If the vehicle will be used to claim CERs that are intended to address a specific pollution problem (e.g., ozone nonattainment), the vehicle must have been registered at an address within an area where emissions reductions are required for the applicable pollutant or pollutant precursor for the 12 month period immediately prior to the date of its sale for use in a vehicle scrappage project or program;
d) Be legally driven to the collection site in accordance with Chapter 12 of the Illinois Vehicle Code [625 ILCS 5/12];
e) Be powered by a spark ignition internal combustion engine;
f) Have arrived at the place of sale under its own power;
g) Have passed the operability check specified in Section 207.312 of this Subpart; and
h) Be in compliance with the Illinois vehicle emissions testing program as specified by the Illinois Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B] and regulations promulgated thereunder.

Section 207.306 Vehicle Ownership

a) Each vehicle retired pursuant to a vehicle scrappage project or program must have a valid, legally transferrable title.
b) An owner listed on the title, a legal representative of the owner(s), or, if the owner is an entity, an agent of the entity must appear at the collection site with the vehicle at the time of its sale to a vehicle scrappage project or program.
c) It shall be the responsibility of the vehicle scrappage sponsor or manager to provide the Illinois Secretary of State with all vehicle transfer records necessary to document the proper transfer and retirement of vehicles that are scrapped. The Agency assumes no responsibility for documentation or legality of transfer of vehicle titles.

Section 207.308 Notification of Intent to Retire Vehicles

a) If the vehicle scrappage plan targets certain vehicles, as provided in Subpart D of this Part, the vehicle scrappage manager or sponsor may request that the Agency provide notice of the applicable vehicle scrappage activities to owners of vehicles that meet the specifications in the plan. This notice will provide information to allow the vehicle owners to contact the relevant vehicle scrappage sponsor or manager for more information about the proposed vehicle scrappage activities.
b) If a vehicle scrappage manager or sponsor does not request the Agency to provide notification as provided in subsection (a) of this Section, the vehicle scrappage sponsor or manager must notify owners of vehicles that are prospective candidates for retirement of the proposed vehicle scrappage activities. Notification may be provided by general public notification methods.
c) Any notification provided to vehicle owners by vehicle scrappage sponsors or managers must, at a minimum, convey the following information:
    1) That participation in the program is strictly voluntary;
    2) The name and address of the vehicle scrappage sponsor or manager;
    3) All conditions that the vehicle owner and the vehicle itself must satisfy in order to participate in the vehicle scrappage project or program;
    4) The amount of money that is being offered to the owner by the vehicle scrappage sponsor or manager for the purchase of the owner's vehicle if all conditions of vehicle eligibility are met;
    5) That the identification of the owner's vehicle as a candidate for retirement does not constitute an allegation of any environmental or other violation by that owner; and
    6) A clear statement that the notice is being provided by that sponsor or manager, not by the Agency or by any other governmental entity, unless the Agency is the vehicle scrappage sponsor.

Section 207.310 Notification to Vehicle Collectors and Automotive Rebuilders and Suppliers

a) The Agency will make available to vehicle scrappage sponsors or managers a list of recognized vehicle collector associations and persons normally engaged in either the business of rebuilding vehicle parts or supplying such parts to rebuilders that may be interested in purchasing vehicles collected under projects and programs. Recognized vehicle collector associations and persons normally engaged in either the business of rebuilding vehicle parts or supplying such parts to rebuilders must submit a written request to the Agency for inclusion on the list.
b) Vehicle scrappage sponsors or managers shall provide notification of the availability of vehicles to be retired by either posting notice on the Internet or providing written notice to the persons or entities identified by the Agency on the list specified in subsection (a) of this Section, subject to the following:
    1) If notification is provided on the Internet, vehicles may not be retired until 10 days after notification is posted; or
    2) If written notification is provided, vehicles may not be retired until 20 days after notification is sent.
c) A vehicle scrappage manager or sponsor may utilize Agency capabilities

to provide the notification required under this Section on the Internet.

d) Vehicle scrappage sponsors and managers may sell vehicles to interested persons in lieu of retiring the vehicle for CERs. Vehicle scrappage managers and sponsors remain eligible for CERs if non-emissions-related parts are sold to interested persons or emissions-related parts are sold to either vehicle collectors or persons normally engaged in either the business of rebuilding vehicle parts or supplying such parts to rebuilders, provided that disassembly of emissions-related parts has been performed as specified in Section 207.316(e) of this Subpart. If a vehicle or emissions-related parts from a vehicle are resold without disassembly as specified in Section 207.316(e) of this Subpart, CERs may not be claimed for the vehicle.

Section 207.312 Operability Check

Each vehicle that is to be retired pursuant to this Part shall pass an operability check prior to purchase and collection. The operability check shall include, at a minimum:

a) Start-up of the vehicle;
b) Test-drive of the vehicle for five or more feet in forward gear;
c) Test-drive of the vehicle for five or more feet in reverse gear;
d) Shut off of the vehicle; and
e) Visual inspection for fluid leakage or any malfunction or other damage that would render the vehicle unsuitable for normal operation.

Section 207.314 Collection and Testing

a) Each vehicle that is purchased and collected by a vehicle scrappage sponsor or manager shall be photographed at the collection site, along with all owners or representatives or agents of the owner(s) of the vehicle that are present. Each vehicle shall also be marked with a unique identification number that is visible in the photograph.
b) After arrival at the collection site, a vehicle scrappage sponsor or manager shall take adequate measures to ensure that a vehicle that is to be retired is not adjusted, repaired or tampered with in any way until any testing has been completed. If non-emissions-related parts are no longer in operable condition after the vehicle is collected and passes the operability requirements in Section 207.312 of this Subpart, repairs may be made if needed to allow testing (e.g., batteries, tires). No parts may be removed from any vehicle prior to the completion of any testing.
c) The mileage indicated on the odometer must be recorded at the time of collection.
d) If vehicles to be retired must undergo emissions testing pursuant to the applicable vehicle scrappage plan and are not tested within 45 calendar days after collection of the vehicle, any CERs claimed which are attributable to that vehicle will be discounted by ten percent.

If emissions testing is not conducted within 90 calendar days after collection of vehicles, vehicle scrappage managers and sponsors will be able to claim CERs only on the basis of modeled emissions.

e) In lieu of performing emissions testing on a vehicle, vehicle scrappage managers and sponsors may use the most recent emissions test results for that vehicle from an Agency administered IM240 test conducted under the Illinois vehicle emissions test program established and operated pursuant to the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B], provided that such test was performed no more than 90 calendar days before collection of the vehicle.

Section 207.316 Disassembly, Recycling and Disposal Based on Vehicle Scrappage Activities

a) All vehicles for which CERs are claimed shall be crushed or otherwise recycled or ultimately disposed of in accordance with this Section, the applicable vehicle scrappage plan and the schedule specified in that plan.
b) Any residual materials or wastes that are derived from the permanent retirement of vehicles, including all fluids, gases and environmentally sensitive materials, shall be recycled or disposed of in an environmentally sound manner, in conformity with the applicable vehicle scrappage plan and in accordance with all federal and State laws and regulations.
c) Used tires derived from the permanent retirement of vehicles shall be recycled or ultimately disposed of in accordance with Title XIV of the Environmental Protection Act [415 ILCS 5/53-55.15] and regulations promulgated thereunder.
d) Non-emissions-related parts may be resold or recycled.
e) Vehicle scrappage managers, sponsors and scrap yards identified in vehicle scrappage plans may resell or recycle emissions-related parts (including engines) to vehicle collectors or to persons normally engaged in either the business of rebuilding vehicle parts or normally engaged in supplying such parts to rebuilders, provided the following requirements are met:
    1) The engine must be disassembled into the cylinder head, block, crankshaft and connecting rods; and
    2) All other emissions-related parts must be disassembled into their major components.
f) Any recycling of emissions-related or non-emissions-related parts shall be conducted in conformity with a vehicle scrappage plan expressly providing for appropriate disassembly, rebuilding or reconditioning, if applicable, and sale.

Section 207.318 Documentation Requirements

a) Each vehicle scrappage sponsor or manager shall maintain records for at least five years of all vehicle scrappage activities conducted as

specified in the applicable vehicle scrappage plan, including the following information:

1) Identification of eligible vehicles accepted in the vehicle scrappage project or program, including the vehicle identification number and documentation indicating that these vehicles meet the eligibility criteria specified in Section 207.304 of this Subpart;
2) Documentation to verify vehicle ownership and appropriate transfer of ownership for all eligible vehicles, as specified in Section 207.306 of this Subpart;
3) Photographic documentation relative to vehicle collection activities, as specified in Section 207.314(a) of this Subpart;
4) Records verifying mileage for each vehicle, as specified in Section 207.314(c);
5) Documentation of all vehicle testing performed in accordance with the applicable vehicle scrappage plan and Section 207.314 of this Subpart and Section 207.502 of this Part;
6) All records and supporting documentation related to any calculations of emissions that are performed;
7) Documentation of all vehicle disassembly, recycling and disposal activities as specified in Section 207.316 of this Subpart, including any waste disposal manifests or receipts obtained from scrap yards, recyclers or disposal facilities evidencing recycling or disposal of all residual materials and wastes derived from vehicle scrappage;
8) If emissions-related parts are resold or recycled, documentation demonstrating that appropriate disassembly has occurred as specified in Section 207.316(e) of this Subpart; and
9) Documentation supporting the use of any enhanced vehicle scrappage options such as the options described in Subpart D.

b) Vehicle scrappage sponsors or managers shall:
1) Maintain all records required under this Part at one location within Illinois;
2) Maintain a copy of the applicable vehicle scrappage plan at the site of each vehicle scrappage activity; and
3) Make a copy of all documentation required to be maintained pursuant to this Part available to Agency representatives for inspection upon request.

SUBPART D: OPTIONS FOR VEHICLE SCRAPPAGE PROJECTS AND PROGRAMS

Section 207.400 Optional Project or Program Enhancements

Vehicle scrappage sponsors and managers proposing to conduct vehicle scrappage projects or programs may include options in proposed plans that exceed the requirements of Subpart C of this Part. The options contained in this Subpart are examples of possible options. Vehicle scrappage sponsors and managers of proposed vehicle scrappage programs shall identify any options in their

proposed vehicle scrappage plans and shall specify the rationale and any supporting information which would indicate that the proposed options will generate greater emissions reductions or more reliable documentation of any claimed CERs.

Section 207.402 Targeting of Vehicles by Model Year

Vehicle scrappage plans may be limited to include only eligible vehicles from specific model years.

Section 207.404 Targeting of High Emissions Vehicles

Vehicle scrappage plans may only include eligible vehicles with demonstrated high emissions. A certificate of waiver under 35 Ill. Adm. Code 276.403 or test results, pursuant to the Agency-administered vehicle inspection and maintenance program may demonstrate that a vehicle has high emissions.

Section 207.406 Targeting of High Usage Vehicles

Vehicle scrappage plans may be limited to eligible vehicles that have been driven at least a specified number of miles per year.

Section 207.408 Use of Enhanced Prescreening Inspection

Vehicle scrappage plans may include operability inspections of vehicles which are to be retired beyond the operability requirements specified in Section 207.312 of this Part with the intent of determining the probable recent use patterns of a vehicle and the remaining useful life of that vehicle. Such inspections shall be conducted and certified by a recognized repair technician, as defined in Section 207.102 of this Part.

Section 207.410 Use of Evaporative System Integrity Test

Vehicle scrappage plans may include an evaporative system integrity test to determine the ability of each vehicle's system to recycle vapors. The results of these tests may be used to characterize the functional status of the vehicle's evaporative control system for use as an input to USEPA's MOBILE model. If the applicable vehicle scrappage plan is for a vehicle scrappage project, the evaporative system integrity test administered at an official vehicle emissions test station of the Agency pursuant to 625 ILCS 5/13B-10 must be used to measure evaporative emissions. Vehicle scrappage plans for programs may specify the use of the evaporative system test administered at an official test station of the Agency or the use of another test.

SUBPART E: MEASUREMENT TECHNIQUES AND
CER CALCULATION AND REVIEW

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Section 207.500 Vehicle Scrappage as a Basis for CERs

Vehicle scrappage sponsors and managers may receive CERs for emissions reductions achieved based on vehicle scrappage activities conducted pursuant to this Part in accordance with the requirements specified in this Subpart. CERs may be used in conjunction with an emissions reduction program or as new source review offsets under 35 Ill. Adm. Code 203 to the extent that the recognition or use of CERs is allowed under and fulfills the requirements of the applicable rule.

Section 207.502 Methods for Determining Emissions Reductions

a) Emission rates from both retired and replacement vehicles must be either measured (measure/measure method), modeled (model/model method), or a combination of measurement and modeling (measure/model method). The vehicle scrappage sponsor or manager shall propose the measurement and/or modeling techniques to be used in the applicable vehicle scrappage plan.
b) Modeled emission rates for retired and replacement vehicles must be calculated using the USEPA MOBILE model, as applied in accordance with USEPA guidance for MOBILE model use for vehicle scrappage activities.
c) The IM240 Test shall be used for any measured VOM emission rate determinations.
d) The remaining useful life of retired vehicles is limited to three years.

Section 207.504 CER Calculation Methodology

a) Except as provided in subsection (b) of this Section, the following formula shall be used to calculate proposed CERs:

CER = [sigma] ([(a)(b)(c)] - [(d)(e)(c)]) (1-(f/100)) / (1000)

Where:

"a" represents the retired vehicle emissions in grams/mile
"b" represents miles per year traveled by the retired vehicle
"c" represents remaining life of the retired vehicle in years
"d" represents the replacement vehicle emissions in grams/mile
"e" represents miles per year traveled by the replacement vehicle (which shall be equal to or greater than "b", unless demonstrated otherwise in a vehicle scrappage plan)
"f" represents the environmental discount factor that must be applied, pursuant to Section 207.506 of this Subpart, if applicable.
"CER" represents a creditable emissions reduction unit in kilograms/year.

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b) Vehicle scrappage sponsors and managers may request Agency approval to deviate from the general formula in subsection (a) of this Section to calculate CERs in their proposed vehicle scrappage plan. This request must demonstrate that the deviation is necessary based on elements of the proposed vehicle scrappage project or program.

Section 207.506 CER Adjustments

a) If the vehicle scrappage plan provides that the emissions of both retired and replacement vehicles are to be modeled (model/model method), the total value of CERs claimed shall be:
   1) Reduced by 20 percent to account for the natural retirement of vehicles; and
   2) Discounted by an additional 5 percent.
b) If the vehicle scrappage plan provides that emissions of vehicles to be retired are to be measured and emissions of replacement vehicles are to be modeled (measure/model method), the total value of CERs claimed shall be reduced by 10 percent to account for the natural retirement of vehicles, unless enhanced prescreening inspection is conducted, as provided in Section 207.408 of this Part. If enhanced prescreening is conducted, no reduction to CERs claimed shall be assessed, except as provided in Section 207.314(d) of this Part.
c) Except as provided in Section 207.314(d) of this Part, if the vehicle scrappage plan provides that emissions of both retired and replacement vehicles are to measured (measure/measure method), no reduction to the value of CERs claimed shall be assessed.

Section 207.508 Remaining Useful Life of Vehicles and Lifetime of CERs

a) If emissions from retired vehicles are modeled, the remaining useful life of retired vehicles shall be three years.
b) If emissions from retired vehicles are measured, the remaining useful life of retired vehicles shall be a minimum of two years. Vehicle scrappage sponsors and managers may demonstrate to the Agency that a remaining useful life of more than two years should apply to CERs generated using a measure/model or a measure/measure method. To make this demonstration, the vehicle scrappage sponsor or manager shall provide the Agency with sufficient information to substantiate that a greater remaining useful life of retired vehicles is justified.
c) CERs are valid for the same period as the remaining useful life of the retired vehicle as specified in this Section.

Section 207.510 Submission and Agency Review of CER Claims

a) Except as provided in Section 207.512 of this Subpart, a vehicle scrappage sponsor or manager may submit a CER claim to the Agency for review not less frequently than yearly, nor more frequently than monthly. The following information must be included in each CER

claim, in addition to any information required in the applicable vehicle scrappage plan:

1) The total amount of CERs claimed to have been generated by vehicle retirement; and
2) Sufficient calculations and supporting documentation to substantiate such claim, including:
   A) Identification (i.e., make, model year and vehicle identification number) of retired vehicles upon which the claim is based;
   B) An explanation, with supporting documentation, of the basis for mileage estimates for each retired and replacement vehicle;
   C) The method used to determine emissions from each retired and replacement vehicle;
   D) The method used to identify replacement vehicles; and
   E) Any discounting of CERs required by this Part.

b) CERs may not be claimed for a vehicle until it has been acquired and retired by the vehicle scrappage sponsor or manager.

c) CERs may be claimed on a lump sum basis for the total aggregate emissions reduction over the remaining useful life of the retired vehicle(s), or allocated on an annual basis over the remaining useful life, not to exceed the total aggregate emissions reduction.

d) Except for Agency sponsored projects or programs, a vehicle scrappage manager, vehicle scrappage sponsor, or, if the vehicle scrappage sponsor is an entity, the responsible official of the entity submitting a CER claim for Agency review pursuant to this Subpart shall make the following statement as part of the claim:

   I certify that the information submitted in this CER claim is, to the best of my knowledge and belief, true, accurate and complete. I am aware that I may be subject to enforcement pursuant to the Illinois Environmental Protection Act if any information submitted in this CER claim is determined to be false or misleading.

e) Except as provided in Section 207.512 of this Subpart, the Agency will review each CER claim submitted and will issue its written determination regarding how many CERs have been generated, if any, within 45 calendar days of the Agency's receipt of a complete claim. CERs are not valid until the Agency has completed its CER determination and notified the vehicle scrappage sponsor or manager in writing of its determination of the amount of CERs generated.

Section 207.512 CERs Based on Agency Sponsored Vehicle Scrappage Activities

If the Agency generates CERs based on vehicle scrappage activities it has sponsored, it shall develop and maintain documentation to substantiate the CERs generated, including the information specified in Section 207.510(a)(2) of this Subpart.

SUBPART F: VEHICLE SCRAPPAGE PLAN CRITERIA, SUBMITTAL, REVIEW AND SUPPLEMENTAL NOTICE PROCEDURE

Section 207.600 Proposed Vehicle Scrappage Plans

No vehicle scrappage project or program may be conducted within Illinois pursuant to this Part without Agency approval or sponsorship of a vehicle scrappage plan designed to cover that specific vehicle scrappage project or program.

Section 207.602 Submittal of Proposed Vehicle Scrappage Plans

a) A vehicle scrappage sponsor or manager may submit a proposed vehicle scrappage plan to the Agency. Each proposed vehicle scrappage plan shall, at a minimum, include:
   1) The name and address of the vehicle scrappage sponsor and manager that will be responsible for the vehicle scrappage project or program;
   2) Proof that the vehicle scrappage sponsor identified in the plan meets the financial responsibility requirements of Section 207.702 of this Part;
   3) Proof that the vehicle scrappage manager has fulfilled the applicable requirements in Section 207.700 of this Part;
   4) The estimated number of vehicles to be retired during the course of the proposed project or program;
   5) The location(s) to be used for all proposed vehicle scrappage activities;
   6) The name and address of any person or entity to be used to perform any of the proposed activities, including, but not limited to, any scrap yard, recycling or disposal facility proposed to be used;
   7) A schedule identifying key dates of the proposed project or program, including the planned dates for: notification to owners of vehicles; purchase of vehicles; measurement of emissions, if any; retirement of vehicles; and completion of the project or program;
   8) Method of notification to owners of vehicles that are candidates to sell their vehicles in accordance with Section 207.308 of this Part;
   9) Procedures to be used for collection and testing, if any, of vehicles to be retired in accordance with Section 207.314 of this Part;
   10) Procedures, if any, for disassembly, rebuilding or reconditioning, and resale of vehicles parts to eligible persons, in accordance with Section 207.316 of this Part;
   11) Procedures for recycling or disposal of all residual materials and wastes generated from the permanent retirement of vehicles, in accordance with Section 207.316(b) of this Part;

12) Method of determining what replacement vehicles are obtained by owners whose vehicles have been retired;
13) Method for measuring or modeling emissions of applicable pollutants for vehicles purchased for retirement and for replacement vehicles, in accordance with Section 207.502 of this Part;
14) Method for calculation of any CERs that may be generated by the project or program, in accordance with Section 207.504 of this Part;
15) If the vehicle scrappage plan is for a vehicle scrappage program, identification of any options that will be used to generate greater emissions reductions or produce more reliable documentation, as provided in Subpart D of this Part, and sufficient justification that the options proposed will achieve these objectives. Additionally, if the use of enhanced prescreening inspection is proposed, as specified in Section 207.408 of this Part, the recognized repair technician who will be used must be identified and information verifying that the technician qualifies as a recognized repair technician must be included;
16) If the vehicle scrappage plan is for a vehicle scrappage project, the vehicle sponsor or manager is not required to obtain prior approval from the Agency for its use of the options described in Subpart D of this Part, but must maintain documentation to support its use of such options.

b) In addition to the information specified in subsection (a) of this Section, the Agency may request additional information from the vehicle scrappage sponsor or manager as needed to determine if the vehicle scrappage plan meets the requirements of this Part.

c) Each vehicle scrappage manager and sponsor, or, if the vehicle scrappage sponsor is an entity, a responsible official of the entity, submitting a proposed plan for Agency approval shall make the following statement as part of the submission to the Agency:

I certify that the information submitted in this proposed vehicle scrappage plan is, to the best of my knowledge and belief, true, accurate and complete, based on reasonable inquiry. I am aware that I may be subject to enforcement under the Environmental Protection Act and may be disqualified from conducting or sponsoring scrappage projects or programs in the State of Illinois, pursuant to 35 Ill. Adm. Code Part 207, if any information submitted in this proposed vehicle scrappage plan is determined to be false or misleading.

Section 207.604 Notice of Proposed Vehicle Scrappage Plans

a) Within 14 days of submitting a vehicle scrappage plan to the Agency, the vehicle scrappage manager or sponsor that submitted the plan shall cause, at its own expense, the publication of notice by advertisement

in a newspaper of general circulation in the area where the collection site for vehicles to be retired is located or, if the vehicle scrappage sponsor is a source, the notice shall be in a newspaper of general circulation in the area the source is located.

b) The notice shall be titled "Notice of Proposed Vehicle Scrappage Plan Submission to the Illinois Environmental Protection Agency."

c) The notice shall contain the name and address of the proposed sponsor and the address of the proposed vehicle collection location.

d) The notice shall state the following: "Any person may review the proposed plan, to the extent allowed by applicable laws and regulations, by contacting the Illinois Environmental Protection Agency. Any person may submit comments to the Illinois Environmental Protection Agency and request a hearing. Comments and requests for hearing must be submitted in writing to Illinois EPA at:

Public Information for the Bureau of Air
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, Illinois 62794

These comments and requests for a hearing must be received by the Illinois EPA within 21 days of the date this publication.

e) The Agency will determine whether to hold a hearing on any vehicle scrappage plan in accordance with 35 Ill. Adm. Code 252.205. Any hearing on a proposed vehicle scrappage plan shall be conducted in accordance with the Agency's "Procedures for Permit and Closure Plan Hearings" (35 Ill. Adm. Code 166: Subpart A, Informational Permit and Closure Plan Hearings).

Section 207.606 Agency Review of Proposed Vehicle Scrappage Plans

a) The Agency will approve or disapprove the proposed vehicle scrappage plan within 90 calendar days of the Agency's receipt of a complete proposed plan, except that this time period is extended to 180 days when a hearing is held, as provided in Section 207.604(e) of this Subpart.

b) A proposed plan will be deemed complete within 30 days of receipt by the Agency unless the Agency provides written notification to the applicant of its determination that the plan is incomplete. A proposed plan will be deemed complete if it includes information addressing each of the applicable elements required under this Section. A notification of incompleteness shall specifically identify the deficiencies with the plan identified by the Agency. After a plan has been deemed complete, the Agency may request additional information as needed to complete its review of the proposed plan.

c) Upon receipt of a notice of approval from the Agency, the vehicle scrappage sponsor or manager who submitted the plan may proceed to implement it pursuant to the schedule specified in the plan.

d) Upon receipt of a notice of disapproval from the Agency, the person who submitted the plan may request that the Pollution Control Board review the Agency's determination.

e) Any plan that identifies a scrap yard, recycling or disposal facility for use in the applicable vehicle scrappage project or program that has violated any requirement specified in this Part may be disapproved by the Agency. The Agency will notify the vehicle scrappage plan applicant in writing of this deficiency with the plan and afford the applicant a reasonable period to identify another scrap yard, recycling or disposal facility to use for its vehicle scrappage activities prior to disapproving the plan.

Section 207.608 Notice of Commencement of Vehicle Scrappage Activities

The vehicle scrappage manager or sponsor must submit written notification to the Agency at least 14 days prior to collecting vehicles for the project or program, indicating the date and location of vehicle collection activities.

Section 207.610 Supplemental Notices Pursuant to Approved Vehicle Scrappage Plans

A vehicle scrappage plan may be renewed if the vehicle scrappage sponsor or manager submits to the Agency a written supplemental notice of their intent to conduct more vehicle scrappage activities at least 60 days in advance of the intended date for notification to owners of vehicles of the opportunity to sell their vehicles. The supplemental notice shall reference the date and number of the already approved plan and shall update the dates and any changes in collection locations. If any deviation is planned from the terms and conditions of the approved plan, other than dates or collection locations, a new proposed plan must be submitted to the Agency, which shall be reviewed in the same manner and time frames provided in Section 207.606 of this Subpart.

Section 207.612 Plans for Agency Sponsored Projects or Programs

Notwithstanding the requirements in this Subpart, if the Agency sponsors a vehicle scrappage project or program, it shall develop a vehicle scrappage plan that meets the requirements of Section 207.602 of this Subpart and provide public notice of its proposed plan, as specified in Section 207.604 of this Subpart.

SUBPART G: VEHICLE SCRAPPAGE SPONSOR AND MANAGER ELIGIBILITY, TRAINING AND APPLICATION PROCEDURE

Section 207.700 Qualifications for Vehicle Scrappage Managers

a) No person or entity may conduct a vehicle scrappage project or program without participation of a vehicle scrappage manager who meets the requirements of this Section supervising vehicle scrappage activities.

b) Any natural person may qualify to be a vehicle scrappage manager if he or she meets the following criteria:
   1) Is at least eighteen years old;
   2) Is an American citizen or legal alien; and
   3) Has never been convicted of or had a final judgement entered against him or her in any State or federal court for a violation of State or federal air pollution laws or regulations, for fraud or for felony theft.

c) Each natural person who wishes to become a vehicle scrappage manager must successfully complete the training course offered by the Agency.
   1) The Agency will offer the training program annually, based on need. The Agency will provide advance public notice of the time, date and location for each training course.
   2) The curriculum for the Agency training course will include the following subjects:
      A) The development of acceptable vehicle scrappage plans;
      B) Methods for CER calculations;
      C) Procedures for modeling and measurement of emissions;
      D) Collector vehicle and vehicle parts rebuilder provisions;
      E) Proper vehicle disassembly and recycling of vehicle parts; and
      F) Methods for proper recycling and/or disposal of residual materials and wastes derived from the retirement of vehicles.
   3) For the applicant to be authorized to manage a vehicle scrappage program, she or he must pass the examination administered by the Agency at the conclusion of each Agency training course, which will test each applicant's knowledge of the material covered in the training course.
   4) If an applicant fails the Agency-administered examination specified in subsection (c)(3) of this Section on the first attempt, he or she shall have the opportunity to take and pass the examination one additional time. If an applicant fails the Agency-administered examination on the second attempt, he or she may reapply for approval to manage a vehicle scrappage program, subject to the same requirements as a first time applicant.
   5) The Agency will offer the examination biannually, if needed. When an Agency-administered examination is to be offered at a different time than immediately following the Agency training course, the Agency will provide advance public notice of the time, date and location for the examination.

d) Prior to conducting any vehicle scrappage activities, each natural person who wishes to be a vehicle scrappage manager must submit an application for the Agency's approval which demonstrates that he or she satisfies all of the qualifications specified in subsection (b) of this Section. Applicants may indicate that they intend to satisfy the requirements specified in subsection (c) of this Section by attending the next Agency training course and taking the examination, if

applicable, at that time.

e) The Agency will approve or disapprove a vehicle scrappage manager application in writing within 30 calendar days of the Agency's receipt of an application or of the conclusion of the Agency training course the applicant is scheduled to attend, whichever occurs latter. Approval will indicate if the applicant is authorized to manage both vehicle scrappage projects and programs or only vehicle scrappage projects.

f) Upon receipt of a notice of approval from the Agency, the applicant is considered a vehicle scrappage manager and may conduct a vehicle scrappage project or, if approved, a vehicle scrappage program in accordance with this Part. Only an approved vehicle scrappage manager may be identified as the vehicle scrappage manager in any proposed vehicle scrappage plan.

g) Each natural person submitting an application pursuant to this Subpart shall sign and date the following statement as part of his or her application:

> I certify that I satisfy all of the qualification requirements for a vehicle scrappage manager and that the information submitted in this application is, to the best of my knowledge and belief, true, accurate and complete. I am aware that I may be subject to enforcement under the Environmental Protection Act and may be disqualified from conducting vehicle scrappage activities in the State of Illinois pursuant to 35 Ill. Adm. Code Part 207 if any information submitted in this application is determined to be false or misleading.

h) To retain authorization to be a vehicle scrappage manager of a vehicle scrappage program, each person approved to manage a vehicle scrappage program shall submit a renewal application to the Agency every three years on or before the date on which he or she received initial approval, and shall take a refresher-training course at the next available course offered.

i) In the event a vehicle scrappage manager unexpectedly leaves that position, the vehicle scrappage sponsor may submit the application specified in subsection (d) of this Section requesting permission from the Agency to allow the substitution of a new manager for up to one year, provided that the candidate for substitution meets the qualifications contained in subsection (b) of this Section and will fulfill the remaining requirements of this Section as soon as practicable, but in any event, no later than one year from the date approval of the substitution is requested.

j) Notwithstanding the requirements in this Section, if the Agency sponsors a vehicle scrappage project or program, it may obtain the services of a vehicle scrappage manager or designate an employee of the Agency to serve in this capacity. To qualify to manage an Agency sponsored vehicle scrappage project or program, an Agency employee must complete the training course specified in subsection (c)(2) of this Section.

Section 207.702 Financial Responsibility of Vehicle Scrappage Sponsors

Any person or entity may qualify to be a vehicle scrappage sponsor if it can demonstrate to the Agency that it has the financial resources necessary to fully complete a project or program in accordance with this Part, including, but not limited to, payment for all vehicles proposed to be retired, testing and analytical costs associated with the proposed project or program, and proper recycling or disposal of all residual materials and wastes generated from the scrappage process, in accordance with this Part. The sufficiency of the financial resources of a potential sponsor must be demonstrated upon submittal of a proposed vehicle scrappage plan in accordance with Subpart F of this Part. A corporate entity may provide the Agency with its most recent Section 10(k) filing submitted to the U.S. Securities and Exchange Commission in order to attempt to demonstrate financial resources sufficient to conduct and complete a scrappage project or program. Corporations for which a Section 10(k) filing is not required and other entities or persons may provide the Agency with audited financial statements or other evidence of a level of capital sufficient to conduct and complete the applicable vehicle scrappage project or program, taking into account the proposed number of vehicles proposed for scrappage. If the Agency sponsors a vehicle scrappage project or program, it is not required to make the demonstration specified in this Section.

SUBPART H: VEHICLE SCRAPPAGE PLAN FEES

Section 207.800 Vehicle Scrappage Plan and Plan Renewal Fees

Each vehicle scrappage sponsor or manager submitting a proposed vehicle scrappage plan or supplemental notice renewal pursuant to Subpart D of this Part shall submit to the Agency the following fee amount:

a) If the plan is for a vehicle scrappage project, a fee of $250 shall be submitted with the proposed vehicle scrappage plan and with any supplemental notification;

b) If the plan is for a vehicle scrappage program, an initial fee of $250 shall be submitted with the proposed vehicle scrappage plan and an annual fee of $175 shall be submitted for each 12 month period or portion thereof it is in operation thereafter. The annual fee shall be submitted to the Agency each year by the date the applicable program was approved; or

c) If the plan requests that the Agency provide notification to owners of vehicles for retirement as provided in Section 207.308(a) of this Part, the fees listed in subsection (a) or (b) of this Section shall be increased by $50 for the initial fee and $25 for the annual fee, if applicable.

Section 207.802 Form of Payment

a) All fees required under this Subpart shall be made by check or money

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order payable to "Treasurer, State of Illinois," for deposit in the Environmental Protection Permit and Inspection Fund.

b) Payment shall identify the associated vehicle scrappage sponsor, vehicle scrappage manager and proposed vehicle scrappage plan, and be sent to:

Illinois Environmental Protection Agency
Fiscal Services Center
P.O. Box 19276
Springfield, Illinois 62794-9276

Section 207.804 Non-Refundability of Fees and Credits for Overpayments

a) Any fees received by the Agency pursuant to this Subpart in a correct amount, as specified in Section 207.800 of this Subpart, shall be not be refunded at any time or for any reason, either in part or in full.

b) In the event that the vehicle scrappage sponsor or manager submits payment in an incorrect amount that results in overpayment, the Agency will return the overpaid amount within 90 days of discovering the overpayment.

Section 207.806 Fee Exemption for Agency Sponsored Vehicle Scrappage Projects or Programs

In the event the Agency sponsors a vehicle scrappage project or program, it shall not be subject to fees specified in this Subpart.

SUBPART I: COMPLIANCE PROVISIONS

Section 207.900 Enforcement

Any person or entity that violates any requirement of this Part shall be subject to enforcement as provided in Title XII of the Environmental Protection Act [415 ILCS 5/42-45].

Section 207.902 Agency Right of Inspection

The Agency shall be entitled to inspect any location used for any activity conducted pursuant to any approved vehicle scrappage plan in accordance with Section 4 of the Environmental Protection Act [415 ILCS 5/4].

Section 207.904 Agency Right to Revoke Approval of Plan

If any authorized representative of the Agency determines that any vehicle scrappage project or program is not being conducted in accordance with the applicable vehicle scrappage plan or this Part, the Agency may revoke its approval of the plan.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Medical Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1285

3)

Section Numbers:	Proposed Action:
1285.265	Amendment

4) Statutory Authority: Medical Practice Act of 1987 [225 ILCS 60]

5) A Complete Description of the Subjects and Issues Involved: PA 90-699 authorizes the Department and the Medical Disciplinary Board to subpoena records in mandatory reporting cases involving death or permanent bodily injury; this proposed rulemaking implements this provision.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
1285.20	Amendment	23 Ill. Reg. 12308
1285.30	Amendment	23 Ill. Reg. 12308
1285.40	Amendment	23 Ill. Reg. 12308
1285.50	Amendment	23 Ill. Reg. 12308
1285.70	Amendment	23 Ill. Reg. 12308
1285.80	Amendment	23 Ill. Reg. 12308
1285.90	Amendment	23 Ill. Reg. 12308
1285.100	Amendment	23 Ill. Reg. 12308
1285.101	Amendment	23 Ill. Reg. 12308
1285.105	Amendment	23 Ill. Reg. 12308
1285.110	Repealed	23 Ill. Reg. 12308
1285.120	Amendment	23 Ill. Reg. 12308
1285.130	Amendment	23 Ill. Reg. 12308
1285.140	Amendment	23 Ill. Reg. 12308

10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit comments to:

DEPARTMENT OF PROFESSIONAL REGULATION

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Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield IL 62786
217/785-0813; Fax: 217/782-7645

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing medical services.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Medical or chiropractic skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1285
MEDICAL PRACTICE ACT OF 1987

SUBPART A: MEDICAL LICENSING, RENEWAL AND RESTORATION PROCEDURE

Section

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg. _____, effective _____.

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section 1285.265 Subpoena Process of Medical and Hospital Records

a) Upon a showing by the Department that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 of the Act has occurred or is occurring, the Disciplinary Board shall subpoena the medical and hospital records of individual patients of any physician licensed under the Act. ~~b)~~Probable cause exists upon a showing that there is a reasonable basis for believing that a violation has occurred or is occurring.

1) A request for subpoena of individual medical and hospital records shall:

A)~~1)~~ Be in writing;

B)~~2)~~ Be signed by the Medical Coordinator or Deputy Medical Coordinator;

C)~~3)~~ State one or more grounds for discipline alleged to be violated;

D)~~4)~~ Identify with reasonable specificity the records requested; and

E)~~5)~~ Include an affidavit of a person having knowledge of facts upon which the request is based.

2)~~c)~~ A subpoena for individual medical and hospital records shall:

A)~~1)~~ Be served within reasonable business hours;

B)~~2)~~ Require an individual to safeguard the confidentiality of individual patients by removing any information which would identify individual patients by name, and encoding the records for use by authorized persons; and

C)~~3)~~ Direct that an inventory of all records produced and a copy of encoding information be left with the caretaker of the records.

b) The Department or Disciplinary Board may, pursuant to Section 23 of the Act, subpoena copies of hospital and medical records in mandatory report cases filed with the Department pursuant to Section 22(A)(34), (35) and (36) and Section 23 of the Act when the patient has failed to provide written consent to the Department to obtain copies of the hospital and medical records and the mandatory report alleges death or permanent bodily injury. Permanent bodily injury that be defined as a bodily injury that causes serious disfigurement or protracted loss or impairment of the function of any bodily member or organ which, according to every reasonable probability, will continue throughout the remainder of one's life.

1) The request for subpoena shall:

A) Be in writing;

B) Be signed by the Medical Coordinator or Deputy Medical Coordinator;

C) State that the mandatory report alleges death or permanent bodily injury;

D) Identify with reasonable specificity the records requested; and

E) Include an affidavit that the patient or legal representative would not consent to release records.

2) The subpoena shall:

A) Be served within reasonable business hours;

B) Require an individual to safeguard the confidentiality of individual patients by removing any information that would identify individual patients by name, and encoding the records for use by authorized persons; and

C) Direct that an inventory of all records produced and a copy of encoding information be left with the caretaker of the records.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code Part 100

3)

Section Numbers:	Proposed Action:
100.2000	Amendment
100.2100	Amendment
100.2101	Amendment
100.2130	Amendment
100.2160	Amendment
100.2170	Amendment
100.2240	Amendment
100.2250	Amendment
100.2300	Amendment
100.2330	Amendment
100.2580	Amendment
100.2680	Repealed
100.3010	Amendment
100.3020	Amendment
100.3110	Amendment
100.3200	Amendment
100.3210	Amendment
100.3220	Amendment
100.3300	Amendment
100.3320	Repealed
100.3360	Amendment
100.5020	Amendment
100.5030	Amendment
100.5250	Amendment
100.7000	Amendment
100.7010	Amendment
100.7030	Amendment
100.7050	Amendment
100.7070	Amendment
100.7090	Amendment
100.7100	Amendment
100.9010	Amendment
100.9300	Amendment
100.9310	Amendment
100.9505	Repealed
100.9600	Amendment
100.9700	Amendment

4) Statutory Authority: 35 ILCS 5/1401(a).

5) A Complete Description of the Subjects and Issues Involved: This rulemaking corrects references to statutes and other regulations to reflect amendments to those statutes and regulations, corrects the forms

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of cross-references, and deletes obsolete provisions.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Paul Caselton
Deputy Chief Counsel - Income Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62708
(217) 782-7055

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

SUBPART B: CREDITS

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

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NOTICE OF PROPOSED AMENDMENTS

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER DECEMBER 31, 1986

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

SUBPART F: BASE INCOME OF INDIVIDUALS

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES (Repealed)

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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg.

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6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. _____, effective _____.

SUBPART A: TAX IMPOSED

Section 100.2000 Introduction

a) In general. The Illinois Department of Revenue is an agency of the government of the State of Illinois under the immediate direction of the Director of Revenue. The Director has general administrative responsibility for the assessment and collection of the Illinois

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Income Tax. Offices of the Department are in Springfield (101 West Jefferson, Springfield, Illinois 62708) and there are District Offices (as of May 31, 1999 ~~August 1, 1986~~) in Rockford, Des Plaines, ~~Waukegan, Champaign,~~ Fairview Heights, Marion, Rock Island, Peoria, Springfield, Chicago ~~(2)~~, Evergreen Park, West Chicago, Park City and Urbana ~~Forest Park~~, Illinois; and Culver City, California; Garland ~~Dallas~~, Texas; Cleveland, Ohio; and Paramus, New Jersey.

b) Scope. The procedural rules of the Department set forth in this part apply to the taxes imposed by the Illinois Income Tax Act. These regulations provide a descriptive statement of the general course and method by which the Department's functions are channeled and determined, insofar as such functions relate generally to the assessment and collection of the Illinois income tax and enforcement of the Illinois Income Tax Act.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: CREDITS

Section 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

a) Scope of this Section. Hereinafter, unless specifically provided otherwise the term "investment credit" refers to the credit against the Personal Property Tax Replacement Income Tax provided by IITA Section 201(e).

b) *A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service after July 1, 1984* (IITA Section 201(e)(1)).

c) *There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service* during the taxable year provided such property is placed in service on or *after July 1, 1986 and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. If, in any year, the increase in base employment over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%* (IITA Section 201(e)(1)).

1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the

number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 or UI-3/40M and divide this total by the number of months in the taxable year.

2) Example of the Additional Investment Credit Computation. During the calendar year 1991, Corporation A reported 500 employees each month on Line 1 of Form UC-3/40. Therefore, Corporation A's base employment in Illinois for 1991 was 500 ((500 x 12)/12 = 500). In 1992, Corporation A reported 500 employees for each of the first six months, and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1992 was 502.5 ((500 x 6) + (505 x 6)/12 = 502.5). Corporation A's percentage of increase in 1992 base employment over 1991 base employment is .5%. This figure is computed by subtracting the 1991 base employment from the 1992 base employment and dividing the remainder by the 1991 base employment ((502.5 - 500)/500 = .005 or .5%). Corporation A will be allowed an additional investment credit for 1992 of .25% (one-half the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 1986.

d) The investment credit is not allowed to the extent it would decrease the taxpayer's replacement tax liability for the taxable year to less than zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois.

1) No carryback or carryforward of unused credit is allowed for tax years ending prior to December 31, 1985.

2) *For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer:*

A) *makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois,*

B) *is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act, and*

C) *is certified by the Department of Commerce and Community Affairs as complying with the requirements specified in subsections (d)(2)(A) and (B) above, by July 1, 1986* (IITA Section 203(e)(1)).

3) For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original

liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

e) Qualified property. In order to qualify for the investment credit, property must be tangible; depreciable pursuant to Internal Revenue Code Section 167, except that "3-year property" as defined in IRC Section 168(c)(2)(A) is not eligible; and acquired by purchase as defined in Internal Revenue Code Section 179(d). IRC Section 168(c)(2)(A), as in effect at the time the credit was enacted, defined "3-year property" to mean "section 1245 property: with a present class life of 4 years or less; or used in connection with research and experimentation." In addition to the above requirements, property must be used in Illinois, by the taxpayer, in manufacturing, retailing, coal mining or fluorite mining in order to qualify for the IITA Section 201(e) ~~201(g)~~ credit against the replacement tax. Qualified property can be new or used; but cannot have been previously used in Illinois, in such a manner and by such a person as would qualify for the investment credit, or for the Section 201(f) Enterprise Zone Investment Credit, and includes buildings and structural components thereof.

1) Tangible property. Tangible property can consist of personalty or realty and includes, but is not limited to, buildings, component parts of buildings, machinery, equipment, and vehicles. Certain property, though tangible in nature, does not qualify as investment credit property because it is not depreciable.

2) Depreciable. In order to qualify for the investment credit, property must also be depreciable pursuant to IRC Section 167. IRC Section 167 provides that depreciable property is property used in the taxpayer's trade or business or held for the production of income which is subject to wear and tear, exhaustion, or obsolescence.

A) Property which is depreciated under the Modified Accelerated Cost Recovery System (MACRS) as provided by IRC Section 168, is considered depreciable pursuant to IRC Section 167 for purposes of the investment credit. Property assigned to a MACRS class of less than 4 years does not qualify for the investment credit.

B) Examples of tangible property which is not depreciable are land, inventories or stock in trade, natural resources, and coin or currency.

C) The provisions of Treasury Reg. ~~IRS--Regulation~~ Section 1.167(a)-4 shall govern in determining whether leasehold improvements are depreciable.

D) IRC Section 179 allows taxpayers, under certain circumstances, to expense up to $10,000 of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was $10,000 or less, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under Section 179 would qualify for the credit based on the cost of the depreciable property reduced by the Section 179 deduction.

3) Placed in service. For purposes of the Illinois investment credit, "placed in service" has the same meaning as under IRC Section 46. Property will be considered to have been placed in service in the same taxable year in which it is taken into account in determining the federal investment tax credit. See Treasury Reg. ~~IRS Regulation~~ Section 1.46-3(d).

A) Even though property is placed in service in the same taxable year in which it is taken into account in determining the Federal investment tax credit only property placed in service in Illinois after June 30, 1984 and before January 1, 1997 can qualify for consideration in determining the credit against the replacement tax. Qualifying property shall be considered placed in service in Illinois on the date on which the property is placed in a condition or state of readiness and availability for a specifically assigned function. See Treasury ~~IRS~~ Reg. Section 1.46-3(d)(2).

B) Property which is disposed of or which ceases to qualify for any other reason during the same taxable year it was placed in service in Illinois will not be considered in computing the investment credit for the taxable year.

4) Adjusted basis. The basis of qualified property for purposes of the investment credit is the property's basis used to compute the depreciation deduction for federal income tax purposes.

A) In computing the amount of investment credit available for a taxable year, the proper investment credit rate will be applied to the total basis of all qualified property placed in service in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.

B) If the basis of property placed in service during a taxable year is increased or decreased during the same taxable year, the increased or decreased basis will be used to compute the investment credit for the taxable year.

5) Acquired by purchase. In order to qualify for the investment credit, the property must have been acquired by purchase as defined in IRC Section 179(d). For purposes of determining whether property is acquired by purchase as defined by IRC Section 179(d), the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in IRC Section 1563(a), except stock ownership of only 50% or more is required. See Treasury Reg. ~~Regulation~~ Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase. IRC Section 179 defines purchase as any acquisition of property except:

A) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Section 267 or 707(b);

B) an acquisition by one component member of a controlled group from another component member of the group; an acquisition of property, if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or

C) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property acquired from a decedent. Property acquired by bequest or demise is not acquired by purchase.

6) Used in Illinois. Mobile property such as vehicles must be used predominantly in Illinois. Removal of such property from Illinois for a temporary and transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Illinois operation of the taxpayer. For purposes of this Section, mobile property is considered to be predominantly used in Illinois if usage in Illinois exceeds usage outside of Illinois. Example. A retailer sometimes uses its trucks based in Illinois to deliver goods both in Illinois and to out-of-State buyers. Such temporary absence of its trucks from Illinois does not disqualify them.

7) Manufacturing, retailing, coal or fluorite mining. In general, in order to qualify for the investment credit against the replacement tax, property must be used in Illinois by the taxpayer exclusively in manufacturing operations, retailing, coal mining, or fluorite mining. See subsection (d) of this regulation for the method of apportioning the cost of a building or structural component thereof when a portion of such building or structural component is used in a non-qualifying operation. A lessor of otherwise qualifying property, which property is used by the lessee in manufacturing,

retailing, or coal or fluorite mining operations, would not qualify for the credit because the property is not used "by the taxpayer".

8) Manufacturing operations. "Manufacturing operations" is defined in IITA Section 201(e)(3) as the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations. It is not necessary that such procedures result in a finished consumer product. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public. The use of otherwise qualifying property in any industrial, commercial or business activity which may be distinguished from manufacturing, processing, fabrication or assembling will not be considered a manufacturing operation for purposes of the Section 201(e) ~~201(g)~~ credit. For example, a building constructed to house the administrative services division of a manufacturing company would not be used for manufacturing operations and would not qualify for the Section 201(e) ~~201(g)~~ credit. By way of further example, otherwise qualifying property used in the following operations will not qualify for the investment credit because the activities described are generally not considered manufacturing operations:

A) Agricultural activities such as cultivating the soil; raising or harvesting crops; the production of seed or seedlings; and the development of hybrid seeds, plants, or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping is not manufacturing.

B) Manufacturing operations do not include mining; quarrying; logging; drilling for oil, gas or water; or any other operations which result in the extraction or procurement of a natural resource. However, the refining or processing of such natural resources into a product of a different form or a product which has different qualities is manufacturing.

C) Persons engaged in the construction, reconstruction, alteration, remodeling, or improvement of real estate are not considered engaged in manufacturing operations.

D) Manufacturing operations do not include research and development of new products or production techniques.

E) Manufacturing operations do not include the use of machinery or equipment in managerial or other non-production, non-operational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing,

receiving, accounting, fiscal management, general communications, plant security, or personnel recruitment, selection or training.

9) Retailing. Retailing is defined as the sale of tangible personal property *or services rendered in conjunction with the sale of tangible consumer goods or commodities* (IITA Section 203(e)(3)). It is not required that such tangible personal property be finished consumer goods, or that the property be sold to its ultimate consumer. For example, sales of tangible personal property for resale are included in the definition of retailing. Also included in the definition of retailing for these purposes are any services rendered in conjunction with the sale of tangible consumer goods or commodities such as uncrating, cleaning, assembling, delivery or installation, provided such services are in conjunction with a specific sale. For example, a delivery truck would qualify for the Section 201(g) credit as it is used in conjunction with specific sales but a company jet used by the president of the company for general or personal purposes would not. Similarly, equipment used by the payroll division of a company would not be used in a retailing operation or in a service rendered in conjunction with the sale of tangible consumer goods. The following activities are not considered retailing operations:

A) The construction, reconstruction, alteration, remodeling, or improvement of real estate;

B) The operation of a hotel or motel or other institution providing only lodging facilities;

C) Other service professions which do not involve the transfer of tangible personal property other than as an incident to the service performed. For guidance in distinguishing service professions from retailing professions, the Department will rely on rules promulgated under the Service Occupation Tax Act at 86 Ill. Adm. Code 140 ~~140.101 et seq.~~;

D) Farming operations related to crop and livestock production do not constitute retailing. However, the marketing of such products would constitute a retailing operation and otherwise qualifying property used in marketing farm produce would qualify for the Section 201(h) credit.

10) Mining of coal or fluorite. Mining has the same meaning as in Section 613(c) of the Internal Revenue Code, but shall be limited to the mining of coal and fluorite (IITA Section 203(e)(3)). Mining as defined in IRC Section 613(c) includes not only extraction, but also treatment processes such as cleaning, breaking, sorting, sizing, dust allaying, and loading for shipment.

11) New or used. Qualifying property can be new or used; however, used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would

qualify for the Illinois investment credit.

A) Example: Corporation A purchases a used pick-up truck, for use in its manufacturing business in Illinois, from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all the other requirements for the investment credit it will not be disqualified, merely, because it was previously used in Illinois for a purpose which did not qualify for the credit. However, had Corporation A purchased the used truck from an Illinois taxpayer in whose hands the truck qualified for the investment credit, the truck would not be qualified property to Corporation A, even though the party from whom the truck was acquired had never received an investment credit for it.

B) Property which would otherwise qualify for the credit will not be disqualified because it was previously used in such a manner and by such a person as would have qualified for the investment credit before the time such credit came into effect. Example: In August of 1983, Corporation A purchased a drill press for use in its manufacturing operation in an Illinois Enterprise Zone from Corporation B. Corporation B originally placed the drill press into service in its Illinois manufacturing operation in January of 1980, before the investment credit came into effect. Even though Corporation B would have qualified for the Illinois investment credit had there been a credit in 1980, this will not disqualify Corporation A from claiming a credit for this property, provided the property is otherwise qualified. However, should Corporation A sell the property to Corporation C for use in its Illinois manufacturing operation, the property would not qualify for the investment credit, even though it would otherwise qualify. Because the property was used in such a manner and by such a person as would have qualified for the investment credit at a time when at least one of the credits was in effect. The fact that the credit was not yet effective when Corporation A placed the property in service will not cause the property to qualify for the credit in the hands of corporation C because IITA Section 201(e) specifically provides that the property is disqualified if it previously qualified under either IITA Section 201(e) or 201(f).

f) Apportioning cost when a building is used for both qualifying and non-qualifying operations. To qualify for the Section 201(e) ~~201(h)~~ credit, property must be used exclusively in one of the qualified operations, such as manufacturing, but the taxpayer need not be exclusively engaged in such operations. Therefore, situations may arise where a building or structure is used to house both

qualifying and non-qualifying operations. In such cases, the portion of the cost associated with that part of the building used exclusively in manufacturing operations would qualify for the credit, but not that part of the building, or any part of a separate building, used for non- qualified operations. The cost of the building can be apportioned by multiplying the cost of the building by a fraction, the numerator of which is total square footage devoted to qualifying operations and the denominator of which is total square footage.

g) Recapture. If within 48 months after being placed in service, any property ceases to be qualified property in the hands of the taxpayer or the situs of any qualified property is moved outside of Illinois, or outside of the enterprise zone, for other than a temporary or transitory purpose, then the personal property tax replacement income or the income tax (whichever was reduced by the credit) for the taxable year in which such event occurred will be increased.

1) Any property disposed of by the taxpayer within 48 months of being placed in service ceases to qualify. Also, any property converted to personal use ceases to qualify. Any property used in other than manufacturing, retailing, coal mining or fluorite mining ceases to qualify.

2) A taxpayer disposes of property when he sells the property, exchanges or trades in worn-out property for new property, abandons the property or retires it from use. Property destroyed by casualty, stolen, or transferred as a gift is treated as having been disposed of. Property which is mortgaged or used as security for a loan does not cease to qualify provided the taxpayer continues to use the property in its business within Illinois Property transferred to a trustee in bankruptcy is considered disposed of in the year the property is transferred to the trustee. A transfer of property by foreclosure is treated as a disposition.

3) The reduction of the basis of qualified property resulting from the redetermination of the purchase price is a disposition of qualified property to the extent of such reduction in the taxable year the reduction takes place. This occurs, for example, when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of part of the original purchase price. See Treasury Reg. ~~Regulation~~ Section 1.47-2(c) under the Internal Revenue Code.

4) In order to determine the amount by which the personal property tax replacement income tax or the income tax must be increased in the taxable year in which the property ceased to qualify, was moved outside of Illinois or the enterprise zone, the taxpayer must recompute the investment credit for the taxable year in which the property was placed inservice by eliminating from his calculations any such property. This

recomputed investment credit is subtracted from the amount of credit actually used in the year in which the disqualified property was placed in service. The difference between the recomputed credit and the credit actually used is added to the personal property tax replacement income tax or the income tax for the year in which the property ceased to qualify or was moved outside of Illinois. If the recomputed credit is greater than the credit actually used in the year the property was placed in service, no addition to the current taxable year's personal property tax replacement income tax or income tax is required.

EXAMPLE: In 1985, Corporation A places qualifying property with a basis of $55,000-00 into service in an enterprise zone located in Illinois and computes a Section 201(g) investment credit for the year of $275-00 ($55,000.00 x .5%) and a Section 201(h) investment credit of $275-00 ($55,000-00 x.5%). Corporation A's 1985 personal property tax replacement income tax is $260-00 and its income tax liability for the year is $420-00. After application of the investment credit, Corporation A has no remaining replacement tax liability and its remaining income tax liability is $145-00. In the following year, Corporation A moved a qualifying asset having a basis in 1985 of $5,000-00 from Illinois and is therefore required to recapture a portion of the investment credit applied against its replacement tax . In order to determine its additional income tax for 1986, Corporation A must recompute its 1985 investment credit by eliminating the disqualified property ($55,000-00 - $5,000-00 x .5% = $250-00). This recomputed credit is subtracted from the investment credit actually used in 1985 against the income tax ($260-00 - $250-00 = $10-00) and the difference is added to Corporation A's 1986 income tax after application of the 1986 investment credit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2101 Replacement Tax Investment Credit (IITA 201(e))

a) A taxpayer shall be allowed a credit against the Personal Property Replacement Income Tax for investment in qualified property ("the investment credit"). The qualified property must be used in Illinois by a taxpayer who is primarily engaged in manufacturing, retailing, coal mining or fluorite mining.

b) *A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984 and before January 1, 2004* ~~1997~~ (IITA Section 201(e)(1)).

c) *There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment in Illinois has increased by at least 1% over the preceding year. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and denominator of which is 1%, but shall not exceed .5%* (IITA Section 201(e)(1)).

1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 or Form UI-3/40M and divide this total by the number of months in the taxable year.

2) Example of the Additional Investment Credit Computation. During the calendar year 1994, Corporation A reported 500 employees each month on Line 1 of Form UC-3/40. Therefore, Corporation A's base employment in Illinois for 1994 was 500 ((500 x 12) divided by 12 = 500). In 1995, Corporation A reported 500 employees for each of the first six months, and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1995 was 502.5 ((500 x 6) +(505 x 6) divided by 12 = 502.5). Corporation A's percentage of increase in 1995 base employment over 1994 base employment is .5%. This figure is computed by subtracting the 1994 base employment from the 1995 base employment and dividing the remainder by the 1994 base employment ((502.5 - 500) divided by 500 = .005 or .5%). Corporation A will be allowed an additional investment credit for 1995 of .25% (one-half of the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 1, 1986.

d) The investment credit is not allowed to the extent it would decrease the taxpayer's replacement tax liability for the taxable year to less than zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. No carryback or carryforward of unused credit is allowed for tax years ending prior to December 31, 1985. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried

forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

e) Qualified property. In order to qualify for the investment credit, property must be tangible; depreciable pursuant to Internal Revenue Code Section 167, except that "3-year property" as defined in IRC Section 168(c)(2)(A) is not eligible; and acquired by purchase as defined in Internal Revenue Code Section 179(d). IRC Section 168(c)(2)(A), as in effect at the time the credit was enacted, defined "3-year property" to mean "section 1245 property: with a present class life of 4 years or less; or used in connection with research and experimentation". In addition to the above requirements, property must be used in Illinois by the taxpayer who is engaged primarily in manufacturing, retailing, coal mining or fluorite mining, in order to qualify for the IITA Section 201(e) credit against the replacement tax. Qualified property can be new or used, but cannot have been previously used in Illinois, in such a manner and by such a person as would qualify for the investment credit, or for the Section 201(f) Enterprise Zone Investment Credit, and includes buildings and structural components thereof.

1) Tangible property, whether new or used, can consist of personalty or realty and includes, but is not limited to, buildings and structural components of buildings, signs that are real property, machinery, equipment, and vehicles. Certain property, though tangible in nature, does not qualify as investment credit property because it is not depreciable.

2) Depreciable. In order to qualify for the investment credit, property must also be depreciable pursuant to IRC Section 167. IRC Section 167 provides that depreciable property is property used in the taxpayer's trade or business or held for the production of income which is subject to wear and tear, exhaustion, or obsolescence.

A) Property which is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by IRC Section 168, is considered depreciable pursuant to IRC Section 167 for purposes of the investment credit. Property assigned to a MACRS class of less than 4 years does not qualify for the investment credit.

B) Examples of tangible property which is not depreciable are land, inventories or stock in trade, natural resources, and coin or currency.

C) The provisions of Treasury Reg. ~~IRS--Regulation~~ Section 1.167(a)-4 shall govern in determining whether leasehold improvements are depreciable.

D) IRC Section 179 allows taxpayers, under certain circumstances, to expense up to $10,000 of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was $10,000 or less, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under Section 179 would qualify for the credit based on the cost of the depreciable property reduced by the Section 179 deduction.

3) Placed in service. For purposes of the Illinois investment credit, "placed in service" has the same meaning as under IRC Section 46. Property will be considered to have been placed in service in the same taxable year in which it is taken into account in determining the federal investment tax credit. See Treasury Reg. ~~IRS-Regulation~~ Section 1.46-3(d).

A) Even though property is placed in service in the same taxable year in which it is taken into account in determining the Federal investment tax credit, only property placed in service in Illinois after June 30, 1984 and before January 1, 1997 can qualify for consideration in determining the credit against the replacement tax. Qualifying property shall be considered placed in service in Illinois on the date on which the property is placed in a condition or state of readiness and available for a specifically assigned function. See Treasury ~~IRS~~ Reg. Section 1.46-3(d)(2).

B) Property which is disposed of, moved out of Illinois or which ceases to qualify for any other reason during the same taxable year it was placed in service in Illinois will not be considered in computing the investment credit for the taxable year.

4) Adjusted basis. The basis of qualified property for purposes of the investment credit is the property's basis used to compute the depreciation deduction for federal income tax purposes.

A) In computing the amount of investment credit available for a taxable year, the proper investment credit rate will be applied to the total basis of all qualified property placed in service in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.

B) If the basis of property placed in service during a taxable year is increased or decreased during the same

taxable year, the increased or decreased basis will be used to compute the investment credit for the taxable year.

5) Acquired by purchase. In order to qualify for the investment credit, the property must have been acquired by purchase as defined in IRC Section 179(d). For purposes of determining whether property is acquired by purchase as defined by IRC Section 179(d), the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in IRC Section 1563(a), except stock ownership of only 50% or more is required. See Treasury Reg. ~~Regulation~~ Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase. IRC Section 179 defines purchase as any acquisition of property except:
   A) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Sections 267 or 707(b);
   B) an acquisition by one component member of a controlled group from another component member of the group; an acquisition of property, if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
   C) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property acquired from a decedent. Property acquired by bequest or demise is not acquired by purchase.
6) Used in Illinois. Mobile property such as vehicles must be used predominantly in Illinois. Removal of such property from Illinois for a temporary and transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Illinois operation of the taxpayer. For purposes of this Section, mobile property is considered to be predominantly used in Illinois if usage in Illinois exceeds usage outside of Illinois. Example: A retailer sometimes uses its trucks based in Illinois to deliver goods both in Illinois and to out-of-State buyers. Such temporary absence of its trucks from Illinois does not disqualify them.
7) A lessor of otherwise qualifying property, which property is used by the lessee in manufacturing, retailing, or coal or fluorite mining operations, would not qualify for the credit because the property is not used "by the taxpayer".
8) "Manufacturing" is defined in IITA Section 201(e)(3) as *the material staging and production of tangible personal property by*

procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations. It is not necessary that such procedures result in a finished consumer product. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public. If a taxpayer primarily engages in the following operations, the taxpayer will not qualify for the investment credit on the basis of engaging primarily in manufacturing. The activities described are generally not considered manufacturing operations:
   A) Agricultural activities such as cultivating the soil; raising or harvesting crops; the production of seed or seedlings; and the development of hybrid seeds, plants, or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping, is not manufacturing.
   B) Manufacturing operations do not include mining; quarrying; logging; drilling for oil, gas or water; or any other operations which result in the extraction or procurement of a natural resource. However, the refining or processing of such natural resources into a product of a different form or a product which has different qualities is manufacturing.
   C) Persons engaged in the construction, reconstruction, alteration, remodeling, or improvement of real estate are not considered engaged in manufacturing operations.
   D) Manufacturing operations do not include research and development of new products or production techniques.
   E) Manufacturing operations do not include the use of machinery or equipment in managerial or other non-production, non-operational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, or personnel recruitment, selection or training.
9) Retailing. Retailing is defined *as the sale of tangible personal property or services rendered in conjunction with the sale of tangible consumer goods or commodities* (IITA Section 203(e)(3)). It is required that such tangible personal property be finished consumer goods, and the property be sold to its ultimate consumer. For example, sales of tangible personal property for resale are not included in the definition of retailing. The following activities are not considered retailing operations:
   A) The construction, reconstruction, alteration, remodeling, or improvement of real estate;

B) The operation of a hotel or motel or other institution providing only lodging facilities;

C) Other service professions which do not involve the transfer of tangible personal property other than as an incident to the service performed. For guidance in distinguishing service professions from retailing professions, the Department will rely on rules promulgated under the Service Occupation Tax Act at 86 Ill. Adm. Code 140;

D) Farming operations related to crop and livestock production do not constitute retailing. However, the marketing of such products would constitute a retailing operation.

10) Mining of coal or fluorite. *Mining has the same meaning as in Section 613(c) of the Internal Revenue Code*, but shall be limited to the mining of coal and fluorite (IITA Section 203(e)(3)). Mining as defined in IRC Section 613(c) includes not only extraction, but also treatment processes such as cleaning, breaking, sorting, sizing, dust allaying, and loading for shipment.

11) New or used. Qualifying property can be new or used; however, used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for the Illinois investment credit.

A) Example: Corporation A purchases a used pick-up truck, for use in its manufacturing business in Illinois, from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all the other requirements for the investment credit, it will not be disqualified merely because it was previously used in Illinois for a purpose which did not qualify for the credit. However, had Corporation A purchased the used truck from an Illinois taxpayer in whose hands the truck qualified for the investment credit, the truck would not be qualified property to Corporation A, even though the party from whom the truck was acquired had never received an investment credit for it.

B) Property which would otherwise qualify for the credit will not be disqualified because it was previously used in such a manner and by such a person as would have qualified for the investment credit before the time such credit came into effect. Example: In August of 1983, Corporation A purchased a drill press for use in its manufacturing operation in an Illinois Enterprise Zone from Corporation B. Corporation B originally placed the drill press into service in its Illinois manufacturing operation in January of 1980, before IITA Section 201(e) came into effect. Even though Corporation B would have qualified for the Illinois investment credit had there been a credit in 1980, this will not disqualify Corporation A from claiming a credit for this property, provided the property is otherwise qualified. However, should Corporation A sell the property to Corporation C for use in its Illinois manufacturing operation, the property would not qualify for the credit, even though it would otherwise qualify, because the property was used in such a manner and by such a person as would have qualified for the investment credit under Section 201(e) or 201(f) ~~201(g) or 201(h)~~ at a time when at least one of the credits was in effect. The fact that the Section 201(e) credit was not yet effective when Corporation A placed the property in service will not cause the property to qualify for the Section 201(e) credit in the hands of corporation C because IITA Section 201(e) specifically provides that the property is disqualified if it previously qualified under either IITA Section 201(e) or 201(f).

f) To qualify for the credit, property must be used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing. It is not required that the property be used exclusively in manufacturing, mining of coal or fluorite or in retailing. So long as the taxpayer is primarily, more than 50%, engaged in one of these operations, all qualified property is eligible for the credit, even if the property is not actually used in an exempt manufacturing, coal or fluorite mining or retailing process. The taxpayer must engage primarily in one or more of the operations. In other words, a taxpayer that is engaged 30% of the time in retailing and 40% of the time in manufacturing will qualify for the credit, because the taxpayer is engaged primarily in one or more of the operations. In determining whether a taxpayer is primarily engaged in an activity the Department will look to the gross receipts of the taxpayer received in the ordinary course of business by that taxpayer. For example, if more than 50% of the taxpayer's gross receipts are from manufacturing, the taxpayer is primarily engaged in manufacturing, or if more than 50% of the gross receipts are from retailing, the taxpayer is primarily engaged in retailing. The taxpayer (and the Department) will look to the gross receipts received by the taxpayer in the ordinary course of business. Therefore, if, for example, the taxpayer suffers a casualty loss and that is compensated for by an insurance payment, the amount of money so received will not be deemed gross receipts received in the ordinary course of business, and disqualify the taxpayer from eligibility and perhaps result in the recapture of credits granted in prior years.
EXAMPLE 1: Corporation A manufactures CD ROM Units for personal computers, which are sold to others for resale. Corporation A also

engages in the retail sale of canned computer software. Finally, Corporation A develops and sells custom computer software to various clients. Corporation A receives 20% of its gross receipts from the manufacturing of CD ROM Units, 40% of its gross receipts from retail sales of canned software, and 40% of its gross receipts from its custom computer software development and sales operations. Corporation A is eligible for the credit. Corporation A is engaged primarily in manufacturing and retailing, because the total of its manufacturing and retailing operations is 80% of its gross receipts. Therefore, the Corporation is eligible for the credit.

EXAMPLE 2: Corporation B operates a hotel. 80% of the gross receipts of Corporation B are from the renting of rooms, 5% of the gross receipts are from the operation of a gift shop in the hotel and the remaining 15% of the gross receipts are from the operation of a restaurant and lounge in the hotel. The renting of rooms is not retailing. Therefore, Corporation B is ineligible for the credit because it is not engaged primarily in retailing, even though it does, through the operation of the gift shop, restaurant and lounge, engage in some retailing activities.

g) Recapture. *If, within 48 months after being placed in service, any property ceases to be qualified property in the hands of the taxpayer or the situs of any qualified property is moved outside of Illinois, or outside of the enterprise zone, for other than a temporary or transitory purpose, then the personal property tax replacement income for the taxable year in which such event occurred will be increased* (IITA Section 201(e)(7)). If, during the 48 month period, the taxpayer ceased to be primarily engaged in retailing, manufacturing, coal or fluorite mining, the property ceases to be qualified property. Therefore, previously granted credits must be recaptured.

1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.

2) A taxpayer disposes of property when he sells the property, exchanges or trades in worn-out property for new property, abandons the property or retires it from use. Property destroyed by casualty, stolen, or transferred as a gift is treated as having been disposed of. Property which is mortgaged or used as security for a loan does not cease to qualify provided the taxpayer continues to use the property within Illinois. Property transferred to a trustee in bankruptcy is considered disposed of in the year the property is transferred to the trustee. A transfer of property by foreclosure is treated as a disposition.

3) The reduction of the basis of qualified property resulting from the redetermination of the purchase price is a disposition of qualified property to the extent of such reduction in the taxable year the reduction takes place. This occurs, for example, when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of part of the original purchase price. See Regulation Section 1.47-2(c) under the Internal Revenue Code.

4) In order to determine the amount by which the personal property tax replacement income tax must be increased in the taxable year in which the property ceased to qualify or was moved outside of Illinois or the enterprise zone, the taxpayer must recompute the investment credit for the taxable year in which the property was placed in service by eliminating from his calculations any such property. This recomputed investment credit is subtracted from the amount of credit actually used in the year in which the disqualified property was placed in service. The difference between the recomputed credit and the credit actually used is added to the personal property tax replacement income tax or the income tax for the year in which the property ceased to qualify or was moved outside of Illinois. If the recomputed credit is greater than the credit actually used in the year the property was placed in service, no addition to the current taxable year's personal property tax replacement income tax or income tax is required.

EXAMPLE: In 1985, Corporation A places qualifying property with a basis of $55,000-00 into service in an enterprise zone located in Illinois and computes a Section 201(e) investment credit for the year of $275-00 ($55,000-00 x .5%) and a Section 201(h) investment credit of $275-00 ($55,000-00 x .5%). Corporation A's 1985 personal property tax replacement income tax is $260-00 and its income tax liability for the year is $420-00. After application of the credit, Corporation A has no remaining replacement tax liability and its remaining income tax liability is $145-00. In the following year Corporation A moved a qualifying asset having a basis in 1985 of $5,000-00 from Illinois and is therefore required to recapture a portion of the investment credit applied against its replacement tax. In order to determine its additional income tax for 1986, Corporation A must recompute its 1985 investment credit by eliminating the disqualified property ($55,000-00 - $5,000-00 x .5% = $250-00). This recomputed credit is subtracted from the investment credit actually used in 1985 against the income tax ($260-00 - $250-00 = $10-00) and the difference is added to Corporation A's 1986 income tax after application of the 1986 investment credit.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2130 Investment Credit; High Impact Business (IITA 201(h))

a) Subject to the minimum investment requirements of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for investment in qualified property which is placed in service in a

federally designated Foreign Trade Zone or Sub-Zone located in Illinois by a Department of Commerce and Community Affairs designated High Impact Business. The credit is reported on Schedules 1299 A, C or D. Recapture (see subsection (i) below) is computed on Schedule 4255.

b) The credit shall be .5% of the basis for such property.

c) The credit shall not be available until the minimum investments in qualified property set forth in Section 5.5 of the Illinois Enterprise Zone Act have been satisfied and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Sections 201(a) and (b) to below zero. The credit applicable to such minimum investments shall be taken in the taxable year in which such minimum investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Sections 201(a) and (b) to below zero. The minimum investments required by Section 5.5 of the Illinois Enterprise Zone Act are:

1) $12,000,000 which will be placed in service in qualified property with an intention to create 500 full-time equivalent jobs at a designated location in Illinois, or

2) $30,000,000 which will be placed in service in qualified property with the intention to retain 1,500 full-time jobs at a designated location in Illinois.

The Illinois Department of Commerce and Community Affairs must certify that the minimum investment requirements have been met.

d) For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is a credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

e) The term "qualified property" means property which is:

1) tangible, whether new or used;

A) Tangible property includes objects or things that are physically capable of being touched and seen and over which a person may assert rights of ownership.

B) Tangible property consists of personalty or realty and includes such items as buildings, structural components of buildings, machinery, equipment and vehicles.

C) Items such as stock certificates, bonds, notes and the like are not tangible personal property. While the certificate or paper may be tangible, the item itself, the share of ownership of a corporation or the promise to pay is an intangible that is memorialized by the paper.

D) The terms "new or used" shall have their commonly ascribed meanings.

2) depreciable pursuant to IRC Section 167, except that "3-year property" as defined in IRC Section 168 is not eligible for the credit provided by IITA Section 201(h);

A) Depreciable property is property used in the trade or business of a taxpayer, or held for production of income, which is subject to wear and tear, exhaustion, or obsolescence. .

B) Property that is depreciated under the Modified Accelerated Cost Recovery System (MARCS), as provided by IRC Section 168, is considered depreciable pursuant to IRC Section 167 for purposes of the Enterprise Zone Investment Credit.

C) Examples of tangible property that is not depreciable include land, inventories or stock-in-trade, natural resources, and coin or currency.

D) The provisions of Internal Revenue Service regulation Section 1.167(a)-4 will be utilized in making determinations as to whether particular leasehold improvements are depreciable.

3) acquired by purchase as defined in IRC Section 179(d); and

A) A purchase is any acquisition of property except:

i) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Sections 267 or 707(b);

ii) an acquisition by one component member of a controlled group from another component member of the group;

iii) an acquisition of property if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or

iv) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property received from a decedent. Property acquired by bequest or demise is not acquired by purchase.

B) For purposes of determining whether property is acquired by purchase as defined by IRC 179(d), the family of an individual includes only his spouse and ancestral and lineal descendants of the individual and his spouse.

C) For purposes of determining whether property is acquired by purchase only, a controlled group has the same meaning as

in IRC Section 1563(a), except stock ownership of only 50% or more is required (also see IRS Regulation Section 1.179-4(f)).

D) Property that the taxpayer constructs, reconstructs or erects is generally considered acquired by purchase.

4) not eligible for the Enterprise Zone Investment Credit provided by IITA Section 201(f).

f) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

1) In computing the amount of credit available for a taxable year, the credit rate will be applied to the total basis of all qualified property that is placed in service by a high impact business located in a foreign trade zone or sub-zone in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.

2) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated foreign trade zone or sub-zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

3) Property that has been fully expensed under IRC Section 179 has no federal depreciable basis with which to compute the credit. Property not fully expensed under IRC 179 can still qualify for the credit.

g) *The term "placed in service" shall have the same meaning as under IRC Section 46.* (IITA Section 201(h)(5)) Property is placed in service for purposes of the credit in the earlier of the following years:

1) That in which, under the taxpayer's depreciation practice, depreciation begins on the property; or

2) That in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

h) If, during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service in a foreign trade zone or sub-zone, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under IITA Section 201(a) and (b) of this Section for such taxable year shall be increased.

1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.

A) A taxpayer disposes of property when he sells the property, exchanges or trades-in worn-out property for new property, abandons the property or retires it from use.

B) Property destroyed by casualty, stolen, or transferred as a gift is disposed of property.

C) Property that is mortgaged or used as security for a loan is not disposed of property, provided that the taxpayer continues to use the property in its business within a foreign trade zone or subzone located in Illinois.

D) Property transferred to a trustee in bankruptcy is considered disposed of property.

E) A transfer of property by foreclosure is a disposition of property.

F) A reduction in the basis of qualified property resulting from a redetermination of the purchase price of the property is a disposition of property to the extent of such reduction in basis in the year in which the reduction takes place. For example, this would occur when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of a portion of the original purchase price.

2) Any property converted to personal use ceases to qualify for the credit.

3) The increase in tax shall be determined by:

A) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and

B) subtracting such computed credit from the amount of credit previously allowed. The difference between the recomputed credit and the credit actually claimed is added to the income tax for year in which the property ceased to qualify.

EXAMPLE: In 1990, High Impact Business A places qualifying property with a basis of $55,000 into service in Illinois and computes a credit for the year of $275 ($55,000 x .5%). High Impact Business A's 1990 income tax is $275. After application of the credit, High Impact Business A has no remaining income tax liability. In the following year, High Impact Business A moved a qualifying asset having a basis of $5,000 from Illinois to Missouri and is required to recapture a portion of the credit applied against its 1990 income tax liability. The credit applied against High Impact Business A's income tax must be recaptured because the property was moved outside of Illinois and no longer qualifies for the credit. In order to determine its additional income tax for 1991, High Impact Business A must recompute its 1990 credit by eliminating the disqualified property ($55,000 - $5,000 x .5% = $250). This recomputed credit is

subtracted from the credit actually used in 1990 against the income tax ($275 - $250 = $25) and the difference is added to High Impact Business A's 1991 income tax.

i) If, during any taxable year ending after December 31, 1996, a taxpayer who has been allowed a credit under IITA Section 201(h) relocates its entire facility in violation of the explicit terms and length of the contract under Section 18-183 of the Property Tax Code, the tax imposed under subsections (a) and (b) of this Section shall be increased for the taxable year in which the taxpayer relocates that facility by an amount equal to the amount of credit received by the taxpayer under this IITA Section 201(h) with respect to qualified property placed in service at that facility.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2160 Research and Development Credit (IITA 201(k))

a) *Beginning with tax years ending after July 1, 1990, a taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for increasing research activities in this State* (IITA 201(k)).

b) *The credit allowed shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State* (IITA Section 201(k)).

c) Not all "research" will qualify for the credit. Nor will every expenditure associated with research qualify for the credit. Qualified research is defined in IRC Section 41(d). Qualifying expenditures means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under IRC Section 41 and which are conducted in this State.

1) IRC Section 41(b) defines "qualifying research expenses" as the sum of the in-house research expenses and the contract research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.

2) Qualifying expenditures also include basic research payments. Basic research payments are defined in IRC Section 41(e).

d) Qualifying expenditures for increasing research activities in this State means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Qualifying expenditures for the base period means the average of the qualifying expenditures for each year in the base period.

e) Base period means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

f) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first* (IITA Section 201(k)). If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year is applied first. If a tax liability for the given year remains, the credit from the next earliest year is applied. Any remaining unused credit or credits can be carried forward to the next following year in which a tax liability exists. However, the credit can only be carried forward 5 years from the year in which the taxpayer incurred the expense for which the credit was given. Any unused credit is then forfeited.

g) Combined returns. In the case of taxpayers filing combined returns, Section 100.5270(d) of this Part details the manner in which the credit is determined.

h) Pass-through of credits to partners and Subchapter S corporation shareholders. For tax years beginning on and after January 1, 1999, partners and shareholders of Subchapter S corporations *shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.* No inference shall be drawn from the enactment of Public Act 91-644, which expressly allows this pass-through of credits, in construing IITA Section 201(k) for tax years beginning prior to January 1, 1999.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

a) *Until January 1, 2005 ~~1995~~, each corporation subject to the Illinois Income Tax Act shall be entitled to a credit against the tax imposed under IITA Sections 201(a) and (b) in an amount equal to 20% of the amount donated to the Illinois Center for Research on Sulfur in Coal* (IITA Section 206).

b) *Until January 1, 2005 ~~1995~~, each corporation subject to the Illinois Income Tax Act shall be entitled to a credit against the tax imposed under IITA Sections 201(a) and (b) in an amount equal to 5% of the amount spent during the taxable year by the corporation on equipment purchased for the purpose of maintaining or increasing the use of Illinois coal at any Illinois facility owned, leased or operated by the corporation.*

1) *Such equipment shall be limited to direct coal combustion equipment and pollution control equipment necessary thereto.*

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2) *For purposes of this credit, the amount spent on qualifying equipment shall be defined as the basis of the equipment used to compute the depreciation deduction for federal income tax purposes. This amount spent is the adjusted basis of each item of equipment as determined pursuant to IRC 167(g). Generally, the adjusted basis will be the purchase price of the property plus any capital expenditures less any rebates* (IITA Section 206).

c) The credit shall be allowed for the tax year in which the amount is donated or the equipment purchased is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit may not reduce a taxpayer's liability below zero, nor may excess credit be carried to another year for years ending prior to December 31, 1987. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the earlier credit shall be applied first.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

Section 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) -- Effect of Combined Net Operating Loss in Computing Illinois Base Income

a) For purposes of computing the group's combined Illinois base income or equivalent, the group's combined net operating loss (after giving effect to inter member eliminations) can be used to offset the group's combined excess addition modifications. This combined net operating loss (after giving effect to inter member eliminations) can be used to offset the group's combined excess addition modifications. The group's combined excess addition modifications is defined as the total of all addition modifications required by IITA Section 203 (except that prescribed by IITA Section 203(b)(2)(E) and Section 203(c)(2)(E)) for all members of the group, less the total of all subtraction modifications required by IITA Section 203 for all members of the group.

b) However, each group member allowed to carryback or forward a portion of the group's combined federal net operating loss from a year which that combined federal net operating loss was used to offset

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any portion of the group's combined excess addition modifications, must take as an addition modification in the carryback and carryforward year its respective share of the NOL addition modification required by IITA Section 203(b)(2)(E) and (c)(2)(E). These respective shares shall be determined in the same manner that ~~as~~ the share of the combined federal net operating loss of each member was determined under Section 100.2230(b) of this Part ~~subsection (d) of 86 Ill. Adm. Code 100.750~~. The amount of the NOL addition modification actually required to be shown in the carryback of carryforward year by any member of the group shall, however, be limited to the amount of loss actually carried to such year by the group member.

1) EXAMPLE 1:

A) FACTS:

i) For 1981, Corporation A filed a separate federal income tax return showing a federal taxable income of $35,000 and an Illinois income tax return reflecting Illinois liability calculated from the $35,000 federal taxable incomeonanon-combined apportionment basis. For 1984, Corporation A filed a separate federal income tax return show individuals operating loss of $100,000 and an Illinois income tax return reflecting that Corporation A was a member of the same unitary business group as three other corporations -- B, C and D -- each of which was formed on the first day of the 1984 taxable year. The federal taxable incomes (NOL) for the Illinois income tax purposes and the addition and subtraction modifications of Corporations A, B, C and D for 1984 are as follows:

	Fed. Taxable Income (NOL) For Ill. Income Tax Purposes	Total Addition Modifications	Total Subtraction Modifications	Excess Addition Modifications
Corp. A	(100,000)	65,000	40,000	25,000
Corp. B	60,000	20,000	5,000	15,000
Corp. C	(30,000)	0	15,000	(15,000)
Corp. D	20,000	0	0	0
Total	(50,000)	85,000	60,000	25,000

ii) Shortly after filing its 1984 return, Corporation A

filed an amended federal income tax return for 1981 claiming on appropriaterefundbasedonthe carryback of the $100,000 NOL from 1984 against the 1981 taxable income. The refund was paid shortly after the claim was filed and Corporation A is now engaged in preparing an appropriate parallel claim for refund of Illinois income tax liability under 86 Ill. Adm. Code 100.2200.

B) ANALYSIS AND CONCLUSION:

i) The group'scombinedfederalnet operating loss for 1984 is (50,000) which will be divided between Corporations A and C (the loss members) for purposes of carryback and carryforward:
Corp. A:$100/$130 x ($50,000) = $38,462
Corp. C:$30/$130 x ($50,000) = ($11,538)

ii) The group's excess addition modifications for 1984 will be divided between the loss members in the same proportion as the group's combined federal net operating loss:
Corp. A:$100/$130 x $25,000 =($19,230)
Corp. C:$30/$130 x $25,000 = ($5,770)

iii) Corporation A's claim for refund of Illinois income tax for 1981 is premised on the NOL carryback of $38,462 from 1984. The amended return which embodies that claim must also reflect an addition modification of $19,230.

2) EXAMPLE 2:

A) FACTS:

i) Same facts as in Example 1 except that Corporation A has a federal net operating loss in 1984 of $65,000 instead of $100,000. Therefore, the federal taxable incomes (NOL) for Illinois income tax purposes and the addition and subtraction modifications of Corporations A, B, C and D for 1984 are as follows:

	Fed. Taxable Income (NOL) For Ill. Income Tax Purposes	Total Addition Modifications	Total Subtraction Modifications	Excess Addition Modifications
Corp. A	(65,000)	65,000	40,000	25,000
Corp. B	60,000	20,000	5,000	15,000
Corp. C	(30,000)	0	15,000	(15,000)
Corp. D	20,000)	0	0	0
Total	(15,000)	85,000	60,000	25,000

ii) Shortly after filing its 1984 return, Corporation A filed an amended federal income tax return for 1981 claiming an appropriate refund based on the carryback of the $65,000 NOL from 1984 against the 1981 taxable income. The refund was paid shortly after the claim was filed and Corporation A is now engaged in preparing an appropriate amended Illinois income tax return for 1981 under Section ~~86 Ill. Adm. Code~~ 100.2200 of this Part.

B) ANALYSIS AND CONCLUSION:

i) The group'scombinedfederalnet operating loss for 1984 is ($15,000) and the group's excess addition modifications equal $25,000, resulting in a combined 1984 Illinois base income of $10,000, i.e., (15,000) plus $25,000. The group's combined federal net operating loss for 1984 will be divided between Corporations A and C (the loss members) for purposes of carryback and carryforward of Illinois net operating loss:
Corp. A: $65/$95 x ($15,000) = ($10,263)
Corp. CB: $30/$95 x ($15,000) = ($4,737)

ii) The amount of the group's excess addition modifications for 1984 that were offset by the group's combined federal net operating loss for 1984 will be divided between the loss members in the same proportion as the group's combined federal net operating loss is divided to compute each loss member's respective share of the 1981 NOL addition modification required by IITA Section 203(b)(2) namely:
Corp. A: $65/$95 x $15,000 = $10,263
Corp. CB: $30/$95 x $15,000 = $4,737

iii) Corporation A's amended Illinois income tax for 1981 would reflect an NOL carryback of $10,263 from 1984 and an addition modification of $10,263.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) -- Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year.

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A claim for refund based upon the carryback of a share of a combined federal net operating loss may be filed at any time within the period stated by IITA Section 911(b). This section generally requires that such a claim be filed no later than ~~two (~~ 2) years and 20 days after the date the "federal change" was finalized by IRS payment to the taxpayer. If taxpayer does not have occasion to receive an IRS refund on the NOL because it was absorbed for federal income tax purposes by incomes of other members of the federal affiliated groups, or because the refund was a consolidated refund for federal purposes, then the period of limitation for filing the Illinois claim is as stated in Section ~~86-111.-Adm.-Code~~ 100.5030 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)

a) In General - For taxable years ending on or after December 31, 1986, IITA Section 207 provides for computation of Illinois net losses for corporations (including Subchapter S Corporations), trusts, estates and partnerships. If, after applying all of the modifications provided for in IITA Sections 203(b)(2), 203(c)(2) or 203(d)(2) and the allocation and apportionment provisions of IITA Article 3, the taxpayer's net income results in an Illinois net loss, such loss shall be allowed as a carryback or carryover deduction in the manner allowed under Section 172 of the Internal Revenue Code, as in effect during the loss year for tax years ending prior to December 31, 1999. For losses incurred in tax years ending on or after December 31, 1999, the Illinois net loss is allowed as a carryback to the 2 preceding taxable years and as a carryforward to the 20 succeeding tax years. The rules for members of a unitary business group are set out in Sections 100.2340 and 100.2350. Sections 100.2200 through 100.2250 which also relate to net operating losses of unitary business groups are only applicable to losses incurred in taxable years ending prior to December 31, 1986. Section 100.9410(f) sets forth the statute of limitations for reporting an Illinois net loss carryback. An Illinois net loss deduction is not available for individuals. Losses incurred by individuals are recognized for Illinois tax purposes in the computation of adjusted gross income for federal tax purposes.

b) Definitions

1) "Illinois net loss" means the amount of loss determined under IITA Section 207. That is, it is the amount of loss, if any, after applying the modifications and allocation and apportionment provisions of the Act, as calculated for tax years occurring on or after December 31, 1986.

2) "Illinois net loss deduction" means the deduction which may be carried pursuant to IITA Section 207.

3) "Net operating loss" means either: The amount of net operating loss determined for federal tax purposes; or for losses occurring prior to December 31, 1986, the amount recognized for Illinois tax purposes.

4) "Net operating loss deduction" means either: The amount of deduction recognized for federal tax purposes; or for losses occurring prior to December 31, 1986, the amount recognized for Illinois tax purposes.

5) The following terms have the following meanings: NOL - Net Operating Loss NOLD - Net Operating Loss Deduction corp. - corporation Treas. - Treasury Reg. - Regulation Sec. - Section Apport. - Apportionment Ill. - Illinois sep. - separate comb. - combined

c) Treatment of capital losses of corporations. The treatment of capital losses is separate and apart from the rules governing Illinois net losses and Illinois net loss deductions. Capital losses will continue to be governed by federal provisions. For federal purposes, capital losses are permitted only to the extent of capital gains and the carryback of capital losses is permitted only to the extent of capital gains in the carryback year. Since the federal carryback of capital losses changes federal taxable income, Illinois claims for refund based on such a federal change are permitted pursuant to IITA Section 506(b). A change in federal taxable income resulting from a federal capital loss carryback would be given effect before applying an Illinois net loss deduction to the same year.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986

a) Years to which Illinois net losses may be carried. Under IITA Section 20(a)(2), an Illinois net loss incurred in a tax year ending on or after December 31, 1999, may be carried back to the two preceding tax years or carried forward to the 20 succeeding tax years. For tax years ending prior to December 31, 1999, IITA Section 207(a)(1) provides that a carryback or carryover deduction shall be allowed in the manner allowed under Section 172 of the Internal Revenue Code. The federal rules concerning the years to which a loss may be carried are contained in Section 172(b) of the Code and in Treas. Reg. Sec. 1.172-4(a)(1). These rules, as now in effect or hereafter amended, shall be followed for Illinois income tax purposes and shall apply to corporations, partnerships, trusts and estates. In general, for

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Illinois net losses incurred in tax years beginning prior to August 6, 1997, the ~~an Illinois~~ net loss shall be carried back to the three preceding taxable years and shall be carried over to the 15 ~~fifteen~~ succeeding taxable years. For Illinois net losses incurred in tax years beginning on or after August 6, 1997 and ending prior to December 31, 1999, the loss may generally be carried back to the two preceding tax years and carried forward to the 20 succeeding tax years. In taxable years ending prior to December 31, 1999, special ~~Special~~ provisions applied ~~apply~~ to regulated transportation companies, financial institutions, product liability losses and other entities or situations, and the provisions in Section 172(b) of the Internal Revenue Code and the related Treasury Regulations relating to the years to which a loss incurred in one of those years may be carried shall be followed.

b) Election to forgo carryback period.

1) Any taxpayer entitled to a net loss carryback may elect to relinquish the entire carryback period with respect to a net loss for any taxable year ending on or after December 31, 1986. Such election shall be made on the taxpayer's return for the taxable year of the net loss and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year.

2) If such election is made on any return which is filed in accordance with Section 502(e) of the Illinois Income Tax Act, the election will be considered to be in effect for all eligible members of the return for the taxable year for which such election is made.

3) If the timely return for the taxable year reflects Illinois income and:

A) a finalized federal change eliminates Illinois income thereby creating an Illinois net loss for the year, the taxpayer may make the election to relinquish the entire carryback period for the Illinois net loss on an amended return or form prescribed by the Department within the 120 day time period prescribed by Section 506(b) of the Illinois Income Tax Act, or

B) an Illinois audit or other Illinois change eliminates Illinois income thereby creating an Illinois net loss for the year, the taxpayer may make the election to relinquish the entire carryback period for the Illinois net loss on forms prescribed by the Department at the time the loss is first reported to Illinois.

c) Portion of Illinois net loss which is a carryback or a carryover to the taxable year in issue. An Illinois net loss shall first be carried to the earliest of the several taxable years for which such loss is allowable and shall then be carried to the next earliest of such several taxable years, etc. The portion of the loss which shall

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be carried to any of such several taxable years subsequent to the earliest taxable year is the excess of such net loss over the sum of the aggregate of the net incomes for all of such several taxable years (without regard to Illinois net loss deductions for such years) preceding such subsequent taxable year. This is illustrated in the following Example.

EXAMPLE: A taxpayer that makes its return on the calendar year basis has an Illinois net loss for 1986. Under the provisions of Section 172(b) of the Internal Revenue Code as in effect in that year, the ~~The~~ entire net loss for 1986 may be carried back to 1983. The amount of the carryback to 1984 is the excess of the 1986 loss over the net income for 1983. The amount of the carryback to 1985 is the excess of the 1986 loss over the aggregate of the net incomes for 1983 and 1984. The amount of the carryover to 1987 is the excess of the 1986 loss over the aggregate of the net incomes for 1983, 1984, and 1985, etc.

d) Carryover of pre-12/31/86 loss and post-12/30/86 loss. Net operating losses incurred prior to December 31, 1986, can be carried over into years in which Illinois net losses (incurred on or after December 31, 1986) are also carried. In such cases, the former losses will be treated as an adjustment to taxable income (i.e., before apportionment) while the latter will be a deduction in computing Illinois net income (i.e., after apportionment). This is illustrated in the following Example.

EXAMPLE: Corporation A is a calendar year taxpayer. It has no partnership income and no nonbusiness income. In 1985, it reported a federal net operating loss of $1000, and on its Illinois return for 1986, it reported an Illinois net loss of $50, neither of which could be carried back to prior years due to losses existing in those years. In 1987, A had federal taxable income (before special deductions) of $200, and Illinois addition modifications of $100. Corporation A would compute its Illinois net income in 1987 as follows: The $1000 net operating loss from 1985 would offset the $200 of 1987 federal taxable income and would offset the $100 of 1987 Illinois addition modifications. In 1988, Corporation A would have remaining $700 of net operating loss carryover from 1985 and $50 of Illinois net loss carryover from 1986.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

a) For the purposes of this Section, "Act" means the Medical Care Savings Account Act [820 ILCS 152].

b) *"Medical care savings account" or "account" means an account established in this State pursuant to a medical care savings account program to pay the eligible medical expenses of an employee and his or her dependents.* (Section 5 of the Act) An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees.

c) A medical care savings account program must include the following:

1) *The purchase by an employer of a qualified higher deductible health plan for the benefit of an employee and his or her dependents.* (Section 5 of the Act)

2) *The contribution on behalf of an employee into a medical care savings account by his or her employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health coverage policy, certificate, or contract for his or her employees may contribute all or part of the deductible of the plan purchased pursuant to* subsection(b)(1), above. *For 1994, a contribution under this Section may not exceed $6,000 for 2 taxpayers filing a joint return, if each taxpayer has a medical care savings account but neither is covered by the other's health coverage, or $3,000 in all other cases. These maximum amounts shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.* (Section 5 of the Act)

A) The Department will announce adjustments in the maximum amounts, as well as in the minimum higher deductible, by annual publication of a Notice of Public Information in the Illinois Register.

B) The Consumer Price Index (CPI) annual average for all urban consumers was 144.5 for calendar year 1993 and 148.2 for calendar year 1994. Therefore, the thresholds established under the Act were adjusted upward by 2% for 1995. Hence, for 1995, the minimum higher deductible is $1026, the maximum higher deductible is $3078, the maximum contribution for 2 taxpayers filing a joint return is $6156 and the maximum contribution for all others is $3078.

C) For the years 1994 through 1999, the thresholds are as follows:

Year	Minimum Higher Deductible	Maximum Higher Deductible	Maximum Contribution For Two	Maximum Contributi All Others
1994	$1,000	$3,000	$6,000	$3,000
1995	$1,026	$3,078	$6,156	$3,078

1996	$1,055	$3,164	$6,328	$3,164
1997	$1,086	$3,256	$6,512	$3,256
1998	$1,111	$3,331	$6,662	$3,331
1999	$1,129	$3,384	$6,768	$3,384

3) An account administrator to administer the medical care savings account from which payment of claims is made. Not more than 30 days after an account administrator begins to administer an account, the administrator shall notify in writing each employee on whose behalf the administrator administers an account of the date of the last business day of the administrator's business year.

d) Section 5 of the Act contains a number of definitions:

1) *"Account administrator" means any of the following:*

A) *A national or state chartered bank, a federal or state chartered savings and loan association, a federal or state chartered savings bank, or a federal or state chartered credit union.*

B) *A trust company authorized to act as a fiduciary.*

C) *An insurance company authorized to do business in this State under the Illinois Insurance Code or a health maintenance organization authorized to do business in this State under the Health Maintenance Organization Act.*

D) *A dealer, salesperson, or investment adviser registered under the Illinois Securities Law of 1953.*

E) *An administrator as defined in Section 511.101 of the Illinois Insurance Code who is licensed under Article XXXI 1/4 of that Code.*

F) *A certified public accountant registered under the Illinois Public Accounting Act.*

G) *An attorney licensed to practice in this State.*

H) *An employer, if the employer has a self-insured health plan under the federal Employee Retirement Income Security Act of 1974 (ERISA).*

I) *An employer that participates in the medical care savings account program.*

2) *"Deductible" means the total deductible for an employee and all the dependents of that employee for a calendar year.*

3) *"Dependent" means the spouse of the employee or a child of the employee if the child is any of the following:*

A) *under 19 years of age, or under 23 years of age and enrolled as a full-time student at an accredited college or university,*

B) *legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for his or her health, guidance, or well-being and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, or*

C) *mentally or physically incapacitated to the extent that he or she is not self-sufficient.*

4) *"Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.*

5) *"Eligible medical expense" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code.*

6) *"Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. Employee includes a self-employed individual.*

7) *"Higher deductible" means a deductible of not less than $1,000 and not more than $3,000 for 1994. This minimum and maximum shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.*

8) *"Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that exceed the higher deductible and that is purchased by an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account.*

e) *Before making any contribution to an account, an employer that offers a medical care savings account program shall inform all its employees in writing of the federal tax status of contributions made.* (Section 10(b) of the Act) The contributions made pursuant to the Medical Care Savings Account Act will be taxable federally unless and to the extent the medical care savings account qualifies as a tax-favored medical savings account under the terms of federal P.L. 104-193.

f) Use of Account Moneys

1) *The account administrator shall utilize the moneys held in a medical care savings account solely for the purpose of paying the medical expenses of the employee or his or her dependents or to purchase a health coverage policy, certificate, or contract if the employee does not otherwise have health insurance coverage. Moneys held in a medical care savings account may not be used to cover medical expenses of the employee or his or her dependents that are otherwise covered, including but not limited to medical expenses covered pursuant to an automobile insurance policy, worker's compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract.* (Section 15(a) of the Act)

2) *The employee may submit documentation of medical expenses paid by the employee in the tax year to the account administrator, and the account administrator shall reimburse the employee from the employee's account for eligible medical expenses.* (Section 15(b)

of the Act)

3) *If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical care savings account when the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer.* (Section 15(c) of the Act)

4) *Upon the death of the employee, the account administrator shall distribute the principal and accumulated interest of the medical care savings account to the estate of the employee.* (Section 20(d) of the Act)

g) Illinois Income Tax Consequences

1) Except as provided in subsection (f)(2) above, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee for eligible medical expenses are exempt from taxation under the Illinois Income Tax Act and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee for the taxable year.

2) *Nothwithstanding* subsection (f)(3), *and subject to* subsection (f)(4), *an employee may withdraw money from his or her medical care savings account for any purpose other than a purpose described in* subsection (f)(1) above *only on the last business day of the account administrator's business year. Money withdrawn pursuant to this* subsection (g)(2) *shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawals.* (Section 20(a) of the Act)

3) *If the employee withdraws money for any purpose other than a purpose described in* subsection (f)(1) above *at any other time, all of the following apply:*

A) *The amount of the withdrawal shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawal.*

B) *The administrator shall withhold and on behalf of the employee shall pay a penalty to the Department equal to 10% of the amount of the withdrawal.* (Section 20(a)(2) of the Act) The administrator must remit the penalty to the Department along with a copy of Form IL-601 "Medical Care Savings Account Penalty Payment."

C) Interest earned on the account during the taxable year in which a withdrawal under this subsection is made shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee.

4) *The amount of a disbursement of any assets of a medical care*

savings account pursuant to a filing for protection under Title 11 of the United States Code, 11 U.S.C. 101 to 1330, by an employee or person for whose benefit the account was established is not considered a withdrawal for purposes of this Section. The amount of a disbursement is not subject to taxation under the Illinois Income Tax Act, and subsection (g)(3) above *does not apply.* (Section 20(c) of the Act)

5) In the event that all of the following occur:

A) *an employee is no longer employed by an employer that participates in a medical care savings account program,*

B) *the employee, not more than 60 days after his or her final day of employment, transfers the account to a new account administrator or requests in writing to the former employer's account administrator that the account remain with that administrator, and*

C) *that account administrator agrees to retain the account, then the money in the medical care savings account may be utilized for the benefit of the employee or his or her dependents subject to this Act, remains exempt from taxation, and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee or his or her dependents for the taxable year. Not more than 30 days after the expiration of the 60 days, if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee, at the employee's last known address, for an amount equal to the amount in the account on that day, and that amount is subject to taxation pursuant to* subsection (g)(3)(A) above, *and shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee but is not subject to the penalty* under subsection (g)(3)(B). *If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer his or her medical care savings account to that new employer's account administrator.* (Section 20(e) of the Act)

h) The Medical Care Savings Account Act and this Section shall expire on 1/1/2000.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES (Repealed)

Section 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

~~a) In the case of an estate or trust, Illinois Income Tax Act Section 203(c)(2)(B) requires that there be added to taxable income *an amount equal to the amount of the deduction allowable under Section 1202 of the Internal Revenue Code* (relating to deduction for excess of capital gains over capital losses) *to the extent deducted from gross income in the computation of taxable income.* However, Illinois Income Tax Act Section 203(c)(3) requires that the amount of any such modification be *adjusted by any amounts included therein which were properly paid, credited, or required to be distributed for the taxable year.*~~

~~b) Section 642(c) of the Internal Revenue Code allows an estate or trust a deduction in computing taxable income for any amount of its gross income without limitation which is, during the taxable year, properly paid to a qualifying charitable organization. Internal Revenue Code Section 642(c) further allows estates and certain trusts a deduction for any amount of gross income which is, during the taxable year, permanently set aside for charitable purposes. In either such case, Section 642(c) requires the amount otherwise allowable as a deduction to be adjusted for any deduction allowable to the estate or trust under Section 1202 of the Internal Revenue Code.~~

~~c) The Illinois Income Tax Act treats estates and trusts as conduits to the same extent as for Federal purposes and gives such taxpayers an unlimited charitable deduction. Section 203(c)(3) is intended to prevent imposition of Illinois Income Tax on any income which should not be taxed under the conduit theory, but which would otherwise be caught in the tax base by the add back provision of Section 203(c)(2)(B). Accordingly, the amount of any deduction allowable under Section 1202 of the Internal Revenue Code which would otherwise be required to be added to the taxable income of an estate or trust shall be reduced by the amount thereof which relates to capital gain income for which the estate or trust is entitled to a charitable deduction under Section 642(c) of the Internal Revenue Code in computing taxable income.~~

~~d) Example: Estate A has $100 of capital gain income which it permanently sets aside for ultimate distribution to the University of Illinois. Estate A would be allowed a charitable deduction of $100 under Section 642(c)(2) of the Internal Revenue Code, were it not for the fact that Estate A is allowed a deduction of $60 under Section 1202 of the Internal Revenue Code. Pursuant to Section 642(c)(4) of the Internal Revenue Code, Estate A's charitable deduction is adjusted to reflect the $60 Section 1202 deduction and Estate A is allowed a charitable deduction of $40. Thus, Estate A's taxable income is reduced by the full amount of the $100 of capital gain income permanently set aside for the University. For Illinois Income Tax purposes, Estate A's base income is identical to its taxable income. Such base income takes into account the $40 charitable deduction allowed in the computation of Federal taxable~~

~~income--and-also-takes-into-account--the-$60--Section-1202--deduction. The-amount-of--the--Section--1202--deduction--which---would--otherwise be---added--to---Estate--A's---taxable--income--to-determine-its--base income--under-Section-203(c)(2)(B)-is--reduced---to--zero---since--the Section--1202-deduction-relates-entirely--to-capital--gain-income--for which-a-Section-642(c)-deduction-is-allowable.~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section 100.3010 Business and Nonbusiness Income (IITA Section 301)

a) In general. For purposes of administration of Article 3 of the Illinois Income Tax Act, business income is income arising from transactions and activity in the regular course of a trade or business, net of the deductions allocable thereto, and includes income from tangible and intangible property constituting integral parts of a person's regular trade or business operations. The term does not include compensation or the deductions allocable thereto (see Section ~~86-Ill.-Adm.-Code~~ 100.3110 of this Part). A person's income is business income unless clearly classifiable as nonbusiness income. Nonbusiness income means all income other than business income or compensation. The classification of income by the labels occasionally used, such as manufacturing income, sales income, interest, dividends, rents, royalties, gains, and operating income, is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of trade or business operations. Accordingly, the critical element in determining whether income is "business income" or "nonbusiness income" is the identification of the transactions and activity which are the elements of a particular trade or business. In general, all transactions and activity which are dependent upon or contribute to the operations of the economic enterprise as a whole will be transactions and activity arising in the regular course of a trade or business. See Section ~~86-Ill.-Adm.-Code~~ 100.3010(d) of this Part for more specific examples of the classification of income as business or nonbusiness income.

b) Two or more businesses of a single person.

1) A person may have more than one "trade or business".In such cases, it is necessary to determine the business income attributable to each separate trade or business. In the case of a person other than a resident, the income of each business is then apportioned by a formula which takes into consideration the instate and outstate factors which relate to the trade or business the income of which is being apportioned.

2) Example: The person is a corporation with three operating divisions. One division is engaged in manufacturing aerospace items for the federal government. Another division is engaged in growing tobacco products. The third division produces and distributes motion pictures for theaters and television. Each division operates independently; there is no strong central management. Each division operates in this state as well as in other states. In this case, it is fair to conclude that the corporation is engaged in three separate "trades or businesses". Accordingly, the amount of business income attributable to the corporation's trade or business activities in this state is determined by applying an apportionment formula to the business income of each business.

3) The determination of whether the activities of the person constitute a single trade or business or more than one trade or business will turn on the facts in each case. In general, the activities of the person will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon, or contribute to each other and the operations of the person as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any one of these factors creates a strong indication that the activities of the person constitute a single trade or business.

A) Same type of business. A person is generally engaged in a single trade or business when all of its activities are in the same general line. For example, a person which operates a chain of retail grocery stores will almost always be engaged in a single trade or business.

B) Steps in a vertical process. A person is almost always engaged in a single trade or business when its various divisions or segments a reengaged in a vertically structured enterprise. For example, a person which explores for and mines copper ores; concentrates, smelts and refines the copper ores; and fabricates the refined copper into consumer products is engaged in a single trade or business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the person's executive offices.

C) Strong centralized management. A person which might otherwise be considered as engaged in more than one trade or business is properly considered as engaged in one trade or business when there is a strong central

management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Thus, some corporations may properly be considered as engaged in only one trade or business when the central executive officers are normally involved in the operations of the various divisions and there are centralized offices which perform for the divisions the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized departments or offices), is determinative in itself; the entire operations of the person must be examined in order to determine whether or not strong centralized management absent other unitary indicia as described above (i.e., same type of business or steps in a vertical process) justifies a conclusion that the activities of the person constitute a single trade or business. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized departments or offices, must exist in order to justify a conclusion that the operations of seemingly separate divisions are significantly integrated so as to constitute a single trade or business.

c) Unitary business.

1) Defined. A trade or business carried on by more than one person is unitary in nature when the persons are related through common ownership and when the trade or business activities of each of the persons are integrated with, dependent upon, or contribute to the activities of one or more of the other persons. The passive ownership of as much as 100% of related persons will not, in the absence of any otherindiciaofunitary operations, lead to a conclusion that the operations of the group are unitary in nature. The following factors are considered to be good indicia of a single trade or business, and the presence of any one of these factors creates a strong indication that the activities of the persons constitute a single trade or business.

A) Same type of business. A trade or business carried on by more than one person is unitary in nature when all of the activities of the persons are in the same general line. For example, separately incorporated grocery stores will almost always be engaged in a unitary trade or business.

B) Steps in a vertical process. A trade or business carried on by more than one person is unitary in nature when the

various members areengagedinavertically structured enterprise. For example, assuming that the common ownership requirement is met, a trade or business that involves the exploration and mining of copper ore by one of the related persons; the smelting and refining of the copper ores by another of the related persons; and, the fabrication of the refined copper into consumer products by another of the related persons, is unitary in nature regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from one of the persons.

C) Strong centralized management. A group of persons which might otherwise be considered as engaged in more than one trade or business is properly considered as engaged in a unitary trade or business when there is strong central management, coupled with the existence of centralized offices for such functions as financing, advertising, research, or purchasing. Thus, some groups of persons may properly be considered as engaged in a unitary trade or business when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons, functions which truly independent persons would perform for themselves, such as accounting, personnel, insurance, legal, purchasing, advertising or financing. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over the particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management absent other unitary indicia as described above (i.e., same type of business or steps in a vertical process) justifies a conclusion that the activities of the persons constitute a unitary trade or business. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must exist in order to justify a conclusion that the operations of otherwise seemingly separate trades or businesses are significantly integrated so as to constitute a unitary business.

2) Common ownership. Common ownership in the case of a corporation is the direct or indirect ownership or control of more than 50% of the outstandingvotingstockofthepersons conducting a unitary trade or business.

3) Apportionment for a group of related persons carrying on a unitary business. See Section 100.3320(b) of this Part ~~86--Ill. Adm. Code 100.3310(b)~~.

4) Examples. The provisions of this paragraph may be illustrated by the following examples.

A) Example A: Sales corporation owns 51% of the outstanding voting stock in each of four subsidiaries, Refining Corporation, Drilling Corporation, Transport Corporation and Research Corporation. Sales Corporation markets and sells petroleum products in the United States and abroad. Nearly all of the petroleum products are obtained from Refining Corporation which acquires the crude oil from Drilling Corporation. Transport Corporation operates pipeline facilities and a large fleet of ocean going vessels used to transport the crude oil from Drilling Corporation's storage facilities to Refining Corporation's refineries. Research Corporation conducts research and development for both Sales and Refining Corporations. The five corporations are conducting a unitary business.

B) Example B: Corporation A owns 60% of the outstanding voting stock in each of three corporations, B, C and D. Corporation B, in turn, owns 100% of the outstanding voting stock in Corporation E. Corporation A is primarily engaged in operating multi-line department stores in Illinois and other mid-western states. Corporation B operates a chain of department stores in the northwestern portion of the United States. B's stores sell only high quality, top grade consumer items. Corporation C operates a chain of discount stores throughout the southwestern portion of the United States. Corporation D is a finance company, handling all of the consumer credit and financing arrangements of purchases at the stores owned by Corporation's A, B and C. Corporation E is the purchasing agent for Corporations A and B and maintains warehouses for the stores' inventories. Corporation A provides management services for all of the other corporations and maintains overall control of the other corporations' budgetary and financial affairs. All of these corporations are engaged in the conduct of a unitary business.

C) Example C: Same facts as Example B, except that Corporation A owns only 15% of the outstanding voting stock of Corporation C. While the activities of Corporation C contribute to and are related to the business activities

of the other corporations, it cannot be included in the unitary group for combined apportionment purposes since the requisite ownership is lacking. However, any dividends or other income paid A which arises From A's ownership interest in C will be business income and included in the total combined unitary business income since the acquisition, management, and disposition of Corporation C's stock constitutes an integral part of the business activity conducted by A.

D) Example D: Corporation K was incorporated in 1945 and thereafter was engaged primarily in activities connected with the manufacture and sale of canned goods. In 1960, K embarked upon a diversification campaign designed to insulate its profits from fluctuations in the demand for canned goods. 100% of the voting stock of Corporation L was acquired. Corporation L operated a chain of department stores throughout the United States. In 1961, K purchased 80% of the voting stock of Corporation M which was engaged primarily in the manufacture and sale of household goods. In 1962, K acquired 75%of the voting stock of Corporation N which developed and marketed computer software and programs. There was no significant flow of goods between any of the corporations. While these subsidiaries were relatively autonomous in their day-to-day operations, Corporation K's board of directors maintainedoverallmanagement control of all of the acquired corporations. The subsidiaries were required to submit annual budgets to K's board for approval. Capital expenditures in excess of $500,000 needed approval from K's board. All of the financing arrangements for the subsidiaries were made by or with the approval of K's management team which authorized and directed intercompany loans when feasible. Tax matters were supervised by K's Tax Department which prepared the subsidiaries' federal and state income tax returns. Corporation K also performed centralized warehousing and accounting functions for itself and its subsidiaries. A uniform system of inventory control for Corporation K and the subsidiaries was developed and managed by Corporation N. Due to the control that Corporation K exerted over the subsidiaries and the integration and interdependence occasioned by the centralization of various business functions, all of the corporations are engaged in a unitary business.

E) Example E: Same facts as in Example D, except that, although Corporation K's board of directors and executive officers maintained overall management control of all of the acquired corporations with regard to major policy matters

such as personnel and capital expenditures, there was insufficient integration because of the absence of such centralized operations as warehousing, purchasing, inventory control, or marketing strategy. Consequently, due to the absence of strong centralized management, the corporations were not engaged in the conduct of unitary business.

F) Example F: Corporation A and subsidiaries B, C and D are engaged in the manufacture and sale of sophisticated computer equipment. A separate subsidiary, Corporation E, was organized to engage in the manufacture and sale of aluminum building products. The plant occupied by E was constructed by A and rented to E at a fair market rental. The products of A, B, C and D require highly advanced technology involving extensive research and development and a highly skilled technical sales force. The products of E require little technology and are marketed by a separate sales force. Due to the absence of a common centralized executive force and accounting system, the existence of separate systems of operation, and the lack of sufficient interdependence, the business operation of E is not considered part of the unitary business of A and the other subsidiaries.

d) Items referred to in IITA Section 303 and unspecified items under IITA Section 301(c)(2)~~:~~

1) In general. IITA Section 303 provides rules for the allocation by persons other than residents of Illinois of any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, and prizes awarded under the Illinois Lottery Law~~,~~ [20 ILCS 1605] ~~Ill.~~ ~~Rev.~~ ~~Stat.~~ ~~1981,~~ ~~ch.~~ ~~120,~~ ~~par.~~ ~~1151,~~ ~~et seq.,~~ together with any item of deduction directly allocable thereto, to the extent such item constitutes nonbusiness income. In addition, IITA Section 301(c)(2) provides rules for the allocation by such persons of unspecified items of nonbusiness income. Any item may, in a given case, constitute either business income or nonbusiness income depending on all the facts and circumstances. The following are rules and examples for determining whether particular income is business or nonbusiness income. (The examples used throughout these regulations are illustrative only and do not purport to set forth all pertinent facts.)

2) Rents from real and tangible personal property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the person's trade or business or is attendant thereto and therefore is includable in the property factor under Section ~~86 Ill. Adm. Code~~ 100.3350 of this Part.

A) Example A: A corporation operates a multistate car rental business. The income from car rentals is business income.

B) Example B: A corporation is engaged in the heavy construction business in which it uses equipment such as cranes, tractors, and earth moving vehicles. The corporation makes short-term leases of the equipment when particular pieces of equipment are not needed on any particular project. The rental income is business income.

C) Example C: A corporation operates a multistate chain of men's clothing stores. The corporation purchases a five-story office building for use in connection with its trade or business. It uses the street floor as one of its retail stores and the second and third floors for its general corporate headquarters. The remaining two floors are leased to others. The rental of the two floors is attendant to the operation of the corporation's trade or business. The rental income is business income.

D) Example D: A corporation operates a multistate chain of grocery stores. As an investment, it uses surplus funds to purchase an office building in another state, leasing the entire building to others. The rental is not attendant to, but rather is separate from, the operation of the grocery store trade or business. Therefore, the net rental income is nonbusiness income.

E) Example E: A corporation operates a multistate chain of men's clothing stores. The corporation invests in a 20-story office building and uses the street floor as one of its retail stores and second floor for its general corporate headquarters. The remaining 18 floors are leased to others. The rental of the 18 floors is not attendant to, but rather is separate from, the operation of the corporation's trade or business. Therefore, the net rental income is nonbusiness income.

F) Example F: A corporation constructed a plant for use in its multistate manufacturing business and 20 years later the plant was closed and put up for sale. The plant was rented for a temporary period from the time it was closed by the corporation until it was sold 18 months later. The rental income is business income and the gain on the sale of the plant is business income.

3) Gains or losses from sales of assets. Gain or loss from the sale, exchange or other disposition of real or tangible personal property constitutes business income if the property, while owned by the person, was used in its trade or business. However, if such property was utilized for the production of nonbusiness income or otherwise was removed from the property factor before its sale, exchange or other disposition, the gain

or loss will constitute nonbusiness income. See Section ~~86 Ill. Adm. Code~~ 100.3350 of this Part.

A) Example A: In conducting its multistate manufacturing business, a corporation systematically replaces automobiles, machines, and other equipment used in the business. The gains or losses resulting from those sales constitute business income.

B) Example B: A corporation constructed a plant for use in its multistate manufacturing business and 20 years later sold the property at a gain while it was in operation by the corporation. The gain is business income.

C) Example C: Same as (d)(3)(B) except that the plant was closed and put up for sale but was not in fact sold until a buyer was found 18 months later. The gain is business income.

D) Example D: Same as (d)(3)(C) except that the plant was rented while being held for sale. The rental income is business income and the gain on the sale of the plant is business income.

4) Interest. Interest income is business income where the intangible with respect to which the interest was received, is held or was created in the regular course of the person's trade or business operations or where the purpose for acquiring or holding the intangible is related or attendant to such trade or business operations.

A) Example A: A corporation operates a multistate chain of department stores, selling for cash and on credit. Service charges, interest, or time-price differentials and the like are received with respect to installment sales and revolving charge accounts. These amounts are business income.

B) Example B: A corporation conducts a multistate manufacturing business. During the year the taxpayer receives a federal income tax refund and collects a judgment against a debtor of the business. Both the tax refund and the judgment bore interest. The interest income is business income.

C) Example C: A corporation is engaged in a multistate manufacturing and wholesaling business. In connection with that business, the corporation maintains special accounts to cover such items as workmen's compensation claims, rain and storm damage, machinery replacement, etc. The moneys in those accounts are invested at interest. Similarly, the corporation temporarily invests funds intended for payment of federal, state and local tax obligations. The interest income is business income.

D) Example D: A corporation is engaged in a multistate money order and traveler's check business. In addition to the

fees received in connection with the sale of the money orders and traveler's checks, the corporation earns interest income by the investment of the funds pending their redemption. The interest income is business income.

E) Example E: A corporation is engaged in a multistate manufacturing and selling business. The corporation usually has working capital and extra cash totaling $200,000 which it regularly invests in short-term interest bearing securities. The interest income is business income.

5) Dividends. Dividends are business income where the stock with respect to which the dividends are received, is held or was acquired in the regular course of the person's trade or business operations or where the purpose for acquiring or holding the stock is related or attendant to such trade or business operations.

A) Example A: A corporation operates a multistate chain of stock brokerage houses. During the year the corporation receives dividends on stock its owns. The dividends are business income.

B) Example B: A corporation is engaged in a multistate manufacturing and wholesaling business. In connection with that business the corporation maintains special accounts to cover such items as workmen's compensation claims, etc. A portion of the moneys in those accounts is invested in interest-bearing bonds. The remainder is invested in various common stocks listed on national stock exchanges. Both the interest income and any dividends are business income.

C) Example C: Several unrelated corporations own all of the stock of another corporation whose business operations consist solely of acquiring and processing materials for delivery to the corporate owners of its stock. The corporations acquired the stock in order to obtain a source of supply of materials used in their manufacturing businesses. The dividends are business income.

D) Example D: A corporation is engaged in a multistate heavy construction business. Much of its construction work is performed for agencies of the federal government and various state governments. Under state and federal laws applicable to contracts for these agencies, a contractor must have adequate bonding capacity, as measured by the ratio of its current assets (cash and marketable securities) to current liabilities. In order to maintain an adequate bonding capacity the corporation holds various stocks and interest-bearing securities. Both the interest income and any dividends received are business income.

E) Example E: A corporation receives dividends from the stock of its subsidiary or affiliate which acts as the marketing agency for products manufactured by the corporation. The dividends are business income.

F) Example F: A corporation is engaged in a multistate glass manufacturing business. It also holds a portfolio of stock and interest-bearing securities, the acquisition and holding of which are unrelated to the corporation's trade or business operations. The dividends and interest income received are nonbusiness income.

6) Patent and copyright royalties. Patent and copyright royalties are business income where the patent or copyright with respect to which the royalties were received, is held or was created in the regular course of the person's trade or business operations or where the purpose for acquiring or holding the patent or copyright is related or attendant to such trade or business operations.

A) Example A: A corporation is engaged in the multistate business of manufacturing and selling industrial chemicals. In connection with that business, the corporation obtained patents on certain of its products. The corporation licensed the production of the chemicals in foreign countries, in return for which the corporation receives royalties. The royalties received by the taxpayer are business income.

B) Example B: A corporation is engaged in the music publishing business and holds copyrights on numerous songs. The corporation acquired the assets of a smaller publishing company, including music copyrights. These acquired copyrights are thereafter used by the corporation in its business. Any royalties received on these copyrights are business income.

C) Example C: Same as example (B), except that the acquired company also held the patent on a type of phonograph needle. The corporation does not manufacture or sell phonographs or phonograph equipment and the holding of the patent is unrelated to its publishing business operations. Any royalties received on the patent would be nonbusiness income.

e) Proration of deductions~~.~~

1) Most of a person's allowable deductions will be attributable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may be attributable to the business income of more than one trade or business and/or to several items of nonbusiness income.

2) In such cases the deduction shall be prorated among such trades or businesses and such items of nonbusiness income in a manner which fairly distributes the deduction among the classes of income to which it is attributable. In filing returns with this state, if a person departs from or modifies the manner of prorating any such deduction used in returns for prior years, the taxpayer should disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by a person with all states to which the taxpayer reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the attribution or proration of any deduction, the person shall disclose in its return to this state the nature and extent of the variance.

f) Definitions~~.~~

1) The term "allocation" refers to the assignment of nonbusiness income to a particular state.

2) The term "apportionment" refers to the division of business income between states by the use of a formula containing apportionment factors.

3) The term "business activity" refers to the transactions and activity occurring in the regular course of a particular trade or business.

4) The term "person" under IITA Section 1501(a)(18) shall be construed to mean and include an individual, trust, estate, partnership, association, firm, company, or poration or fiduciary.

5) The term "taxpayer" is defined in IITA Section 1501(a)(24) ~~(25)~~ to mean any person subject to the tax imposed by the Act.

6) For a definition of the term "commercial domicile", see Section ~~86-Ill-Adm.-Code~~ 100.3210 of this Part.

7) For a definition of the term "resident", see Section ~~86-Ill. Adm.-Code~~ 100.3020 of this Part.

8) For a definition of the term "state", see Section ~~86--Ill.--Adm. Code~~ 100.3110 of this Part.

9) For a definition of the term "taxable in another state", see Section ~~86-Ill.-Adm.-Code~~ 100.3200 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.3020 Resident (IITA Section 301)

a) General definition. The term "resident" is defined in IITA Section 1501(a)(20) to mean:

1) an individual who is in Illinois for other than a temporary or transitory purpose during the taxable year or who is domiciled in Illinois but is absent from Illinois for a temporary or transitory purpose during the taxable year;

2) the estate of a decedent who at his death was domiciled in

Illinois;

3) a trust created by the will of a decedent who at his death was domiciled in Illinois; and

4) an irrevocable trust, the grantor of which was domiciled in Illinois at the time such trust became irrevocable. For the purpose of this subparagraph, a trust is considered irrevocable to the extent that the grantor is not treated as the owner thereof under 26 U.S.C. 671 through 678.

b) Individuals. The purpose of the general definition is to include in the category of individuals who are taxable on their entire net income, regardless of whether derived from sources within or without Illinois, all individuals who are physically present in Illinois enjoying the benefit of its government, except those individuals who are here temporarily, and to exclude from this category, all individuals, who, although domiciled in Illinois, are outside Illinois for other than temporary and transitory purposes, and, hence, do not obtain the benefit of Illinois government. If an individual acquires the status of a resident by virtue of being physically present in Illinois for other than temporary or transitory purposes, he remains a resident even though temporarily absent from Illinois. If, however, he leaves Illinois for other than temporary or transitory purposes, he thereupon ceases to be a resident. If an individual is domiciled in Illinois, he remains a resident unless he is outside Illinois for other than temporary or transitory purposes.

c) Temporary or transitory purposes. Whether or not the purpose for which an individual is in Illinois will be considered temporary or transitory in character will depend upon the facts and circumstances of each particular case. It can be stated generally, however, that if an individual is simply passing through Illinois on his way to another state, or is here for a brief rest or vacation, or to complete a particular transaction, or perform a particular contract, or fulfill a particular engagement, which will require his presence in Illinois for but a short period, he is in Illinois for temporary or transitory purposes, and will not be a resident by virtue of his presence here. If, however, an individual is in Illinois to improve his health and his illness is of such a character as to require a relatively long or indefinite period to recuperate, or he is here for business purposes which will require a long or in definite period to accomplish, or is employed in a position that may last permanently or indefinitely, or has retired from business and moved to Illinois with no definite intention of leaving shortly thereafter, he is in Illinois for other than temporary or transitory purposes, and, accordingly, is a resident taxable upon his entire net income even though he may also maintain an abode in some other state.

1) Example 1. X is domiciled in Fairbanks, Alaska, where he had lived for 50 years and had accumulated a large fortune. For

medical reasons, X moves to Illinois where he now spends his entire time, except for yearly summer trips of about three or four months duration to Fair banks. X maintains an abode in Illinois and still maintains, and occupies on visits there, his old abode in Fairbanks. Notwithstanding his abode in Fairbanks, because his yearly sojourn in Illinois is not temporary or transitory, he is a resident of Illinois, and is taxable on his entire net income.

AGENCY NOTE: If in the foregoing example, the facts are reversed so that Illinois is the state of original domicile and Alaska is the state in which the person is present for the indicated periods and purposes, X is not a resident of Illinois within the meaning of the law, because he is absent from Illinois for other than temporary or transitory purposes.

2) Example 2. Until the summer of 1969, Y admitted domicile in Illinois. At that time, however, to avoid the Illinois income tax, Y declared himself to be domiciled in Nevada, where he had a summer home. Y moved his bank accounts to banks in Nevada, and each year thereafter spent about three or four months in Nevada. He continued to spend six or seven months of each year at his estate in Illinois, which he continued to maintain, and continued his social club and business connections in Illinois. The months not spent in Nevada or Illinois he spent traveling in other states. Y is a resident of Illinois and is taxable on his entire net income, for his sojourns in Illinois are not for temporary or transitory purposes.

AGENCY NOTE: If, in the foregoing example, the facts are reversed so that Nevada is the state of his original domicile, and the state in which the person is present for the indicated periods and purposes, Y is not a resident of Illinois within the meaning of the law because he is absent from Illinois for other than temporary or transitory purposes.

3) Example 3. B and C, husband and wife, domiciled in Minnesota where they maintain their family home, come to Illinois each November and stay here until the middle of March. Originally they rented an apartment or house for the duration of their stay hear but three years ago they purchased a house here. The house is either rented or put in the charge of a caretaker from March to November. B has retired from active control of his Minnesota business but still keeps office space and nominal authority in it. He belongs to clubs in Minnesota, but to none in Illinois. He has no business interests in Illinois. C has little social life in Illinois, more in Minnesota, and has no relatives in Illinois. Neither B nor C is a resident of Illinois. The connection of each to Minnesota, the state of domicile, in each year is

closer than it is to Illinois. Their presence here is for temporary or transitory purposes.

AGENCY NOTE: If, in the foregoing example, the facts are reversed so that Illinois is the state of domicile and Band C are visitors to Minnesota, B and C are residents of Illinois.

d) Domicile. Domicile has been defined as the place where an individual has his true, fixed, permanent home and principal establishment, the place to which he intends to return whenever he is absent. It is the place in which an individual has voluntarily fixed the habitation of himself and family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some unexpected event shall occur to induce him to adopt some other permanent home. Another definition of "domicile" consistent with the above is the place where an individual has fixed his habitation and has a permanent residence without any present intention of permanently removing therefrom. An individual can at any one time have but one domicile. If an individual has acquired a domicile at one place, he retains that domicile until he acquires another elsewhere. Thus, if an individual, who has acquired a domicile in California, for example, comes to Illinois for a rest or vacation or on business or for some other purpose, but intends either to return to California or to go elsewhere as soon as his purpose in Illinois is achieved, he retains his domicile in California and does not acquire a domicile in Illinois. Likewise, an individual who is domiciled in Illinois and who leaves the state retains his Illinois domicile as long as he has the definite intention of returning to Illinois. On the other hand, an individual, domiciled in California, who comes to Illinois with the intention of remaining indefinitely and with no fixed intention of returning to California loses his California domicile and acquires an Illinois domicile the moment he enters the state. Similarly, an individual domiciled in Illinois loses his Illinois domicile:

1) by locating elsewhere with the intention of establishing the new location as his domicile, and

2) by abandoning any intention of returning to Illinois.

e) Minors. The domicile of a minor is ordinarily the same as the domicile of his parents or guardians. If the father is deceased, the domicile of a minor is ordinarily the same as the domicile of his mother and vice versa. In either case, if the minor's parents are divorced, the domicile of the minor is the same as the domicile of the parent having custody.

f) Presumption of residence and nonresidence. If an individual spends in the aggregate more than nine months of any taxable year in Illinois it will be presumed that he is a resident of Illinois. An individual who is absent from Illinois for one year or more will be presumed to be a nonresident of Illinois. These presumptions are not conclusive, and may by overcome by other

satisfactory evidence to the contrary.

g) Proof of residence or nonresidence

1) The type and amount of proof that will be required in all cases to rebut or overcome a presumption of residence or nonresidence cannot be specified by a general regulation, but will depend largely on the circumstances of each particular case. The taxpayer may submit any relevant evidence to the Department for its consideration. Such evidence may include, but is not limited to, affidavits, evidence of: voter registration, automobile or drivers license registration, filing an income tax return as a resident of another state, home ownership or rental agreements, club and/or organizational memberships and participation, telephone and/or other utility usage over a duration of time. In appropriate instances, the Department may request any relevant evidence which may assist it in determining the taxpayer's place of residence.

2) If an individual is presumed under this Section ~~regulation (86 Ill. Adm. Code 100.3020)~~ to be a resident for any taxable year, he should file a return for that year even though he believes he was a nonresident who, as such, would not incur an Illinois income tax liability because he would have no income allocable or apportionable to Illinois. Such are turn will enable the individual to avoid the possible imposition of penalties for failure to file under IITA Section 1001 should it later be determined that he was a resident for the taxable year. The return should be marked as a nonresident return, though Schedule NR is not required. The return should exhibit the computation of net income as though the individual were a resident. The line on the return provided for entering the tax liability should have the following notation: "No liability -- nonresident." The return should be accompanied by a signed statement indicating which presumption of residence the individual was subject to and setting forth in detail the reasons why the individual believes he was a nonresident for the taxable year. The return should also be accompanied by any evidence such as certificates or affidavits that the individual is able to obtain showing that he was a nonresident for the taxable year. If the Department is not satisfied that the individual was a nonresident, it will so inform the individual and provide him with an opportunity to submit additional information supporting his contention. If the individual fails to submit additional information, or if the additional information submitted does not, when considered with the information appended to the return, overcome the presumption that the individual was a resident for the taxable year, the Department will issue a notice of deficiency asserting a liability against the individual on the

following basis:

A) that the individual is a resident for the taxable year, and

B) that the individual's net income for the taxable year is:

i) the amount reflected, with appropriate mathematical error adjustments under IITA Section 903(a)(1), on the return filed by the individual under this subsection (g)(2)(B)(i); ~~paragraph~~ or

ii) whatever other amount the Department has determined by an examination under IITA Section 904.

3) An individual who, for any taxable year, believes himself to be a nonresident, but who is presumed to be a resident under this Section ~~regulation--(86--Ill.--Adm.-Code-100.3020)~~ may file his return (including a Schedule NR) as a nonresident if, as a nonresident, he incurs an Illinois income tax liability due to income allocated or apportioned to Illinois as a nonresident. However, the return should be accompanied by assigned statement indicating which presumption of residence the individual is subject to and setting forth in detail the reasons why the individual believes he was a nonresident for the taxable year. There turn should also be accompanied by any evidence such as certificates or affidavits that the individual is able to obtain showing that he was a nonresident for the taxable year. If the Department is not satisfied that the individual was a nonresident, it will so inform the individual and provide him with an opportunity to submit additional information supporting his contention. If the individual fails to submit additional information, or if the additional information submitted does not, when considered with the information appended to the return, over come the presumption that the individual was a resident for the taxable year, the Department will issue a notice of deficiency asserting a liability against the individual on the following basis:

A) that the individual was a resident for the taxable year;~~,~~

B) that the individual's net income for the taxable year is:

i) his entire base income, as reflected on his return with appropriate mathematical error adjustments under IITA Section 903(a)(1),less the appropriate standard exemption prescribed by IITA Section 204; or

ii) his entire base income, as determined by the Department in an examination under IITA Section 904, less the appropriate standard exemption prescribed by IITA Section 204.

h) Military personnel. Under 50 USC ~~U.S.C.~~ App. 574, members of the U.S. Armed Forces (and commissioned officers of the U. S. Public Health Service) will not cease to be domiciled in Illinois solely

by reason of their assignment to duty in other states for long periods; domiciliaries of other states will not become Illinois residents under the Act solely by reason of their presence in Illinois under military orders.

i) Resident: Legal Definition: Usage. The term "resident" is defined differently for different purposes. For example, an individual may be a "resident" for Illinois income tax purposes but not a "resident" eligible to vote (cf. Section 15-1501(a)(20) of the IITA with Sections 3-1 through 3-4 of the Election Code [10 ILCS 5/3-1 through 3-4] ~~(Ill.-Rev.-Stat.,-ch.-46,-pars.-3-1-through--3-4)~~). Similarly, a person may be a resident of Illinois for Illinois income tax purposes, and also a resident of another state for purposes of that state's income tax law (cf. Section 15-1501(a)(20) of the IITA with Wis. Stats., ch. 71, sec. 71.01(1)).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section 100.3110 State (IITA Section 302)

The term "state" when applied to a jurisdiction other than Illinois is defined in IITA Section 1501(a)(22) ~~(21)~~ to mean any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country, or any political subdivision of any of the foregoing.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3200 Taxability in Other State (IITA Section 303)

a) General definition.

1) For purposes of allocation of nonbusiness income and for purposes of the sales factor used in apportioning business income, a taxpayer is taxable in another state if:

A) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

B) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not subject the taxpayer to such a tax.

2) A taxpayer is subject to one of the specified taxes in subsection (a)(1) in a particular state only if he is subject to

such tax by reason of income-producing activities in such state. For example, a corporation which pays a minimum franchise tax in order to qualify for the privilege of doing business in a state is not subject to tax by that state within the meaning of subsection (a)(1) if the amount of such minimum tax bears no relation to the corporation's activities within such state. Further, a taxpayer claiming to be taxable in another state under the tests set forth in subsection (a)(1) must establish not only that under the laws of such state he is subject to one of the specified taxes, but that he, in fact, pays such tax. If a taxpayer is subject to one of the taxes specified in subsection (a)(1) but does not, in fact, pay such tax, such taxpayer may not claim to be taxable in the state imposing such tax under the test set forth in this subsection (a)(2). On the other hand, if a taxpayer is not subject in a given state to any of the taxes specified in subsection (a)(1) but such taxpayer establishes that his activities in such state are such as to give the state jurisdiction to subject him to a net income tax, then under the test set forth in this subsection (a)(2), the taxpayer is taxable in such state, notwithstanding the fact that such state has not enacted legislation subjecting him to such tax. In the case of any state other than a foreign country or political subdivision thereof, the determination of whether such state has jurisdiction to subject the taxpayer to a net income tax will be determined under the Constitution and statutes of the United States. Such a state does not have jurisdiction to subject the taxpayer to a net income tax if it is prohibited from imposing such a tax by reason of the provisions of Public Law 86-272, 15 USC ~~U.S.C.~~ Sections 381-385. In the case of any foreign country or political subdivision thereof, the determination of whether such state has jurisdiction to subject the taxpayer to a net income tax will be determined as if the foreign country or political subdivision were a state of the United States or political subdivision thereof.

b) Examples. Section ~~86-Ill.-Adm.-Code~~ 100.3200 of this Part may be illustrated by the following examples:

1) Example 1. A corporation, although subject to the provisions of the net income tax statute imposed by X state, has never filed income tax returns in that jurisdiction and has never paid income tax to X. For purposes of allocation and apportionment of A's income, A is not taxable in X state because it does not meet either test ~~tests~~ specified in subsection (a)(1) or (2) ~~of paragraph (a)~~.

2) Example 2. Bcorporation,anIllinois corporation, is actively engaged in manufacturing farm equipment in Y foreign country. Y does not impose a franchise tax measured by net income or a

corporate stock tax. It does impose a franchise tax for the privilege of doing business, but B corporation is not subject to that tax because it applies only to corporations incorporated under Y's laws. Y also imposes a net income tax upon foreign corporations doing business within its boundaries, but B is not subject to that tax because the income tax statute grants tax-exemption to corporations manufacturing farm equipment. For purposes of allocation and apportionment of B's income, B is taxable in Y country. B does not meet the test specified in subsection (a)(1) ~~of paragraph (a)~~, but does meet the test specified in subsection (a)(2), since Y has jurisdiction to impose a net income tax on B.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.3210 Commercial Domicile (IITA Section 303)

a) General definition. The term "commercial domicile" is defined in IITA Section 1501(a)(2) to mean the principal place from which the trade or business of the taxpayer is directed or managed. In general, this is the place at which the offices of the principal executives are located. Where executive authority is scattered, the place of daily operational decision making controls. Such determinations must be made on the basis of all the facts and circumstances.

b) Example. Section ~~86-Ill.-Adm.-Code~~ 100.3210 of this Part may be illustrated by the following example: Company A has a board of directors which meets quarterly, each meeting being held at a different plant in a different state. A's chairman is designated as its chief executive officer and all top policy decisions are made by him. A's president makes the day-to-day decisions involved in management and it is to him that the manufacturing and sales vice presidents report. He reports to the chairman. A's treasurer is the company's top financial officer, reporting directly to the chairman, and being reported to by financial vice presidents and the controller. A's chairman operates largely out of his home in Wisconsin, communicating with other executives by telephone and periodic visits to their offices. A's president has his office at the company office in Chicago. The manufacturing and sales vice presidents also have offices at the company office in Illinois, as do the sales manager and the controller. A's treasurer and financial vice-president have their offices at the company office in New York City. The company's attorneys and accountants are located in Chicago; its investment banker in New York City. On the basis of the foregoing facts, A's commercial domicile would be Illinois, because daily operational decision making occurs principally within Illinois.

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(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

a) In general. IITA Section 1303 provides rules for the allocation by any person other than a resident of Illinois of any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, together with any item of deduction directly allocable thereto, to the extent such item constitutes nonbusiness income. For the tests as to whether any such item constitutes business or nonbusiness income, see Section ~~86 Ill. Adm. Code~~ 100.3010 of this Part.

b) Capital gains and losses.

1) Real property. Capital gains and losses from sales or exchanges of real property are allocated to Illinois if the property is located in Illinois. Economic interests in minerals in place, such as oil or gas, are real property under IITA Section 303. Examples of such interests are royalties, overriding royalties, participating interests, production payments and working interests.

2) Tangible personal property. Capital gains and losses from sales or exchanges of tangible personal property are allocated to Illinois, if at the time of the sale or exchange:

A) the property has its situs in Illinois, or

B) the taxpayer has its commercial domicile in Illinois and is not taxable in the state in which the property has its situs. For the tests of taxability in another state and commercial domicile, see Sections ~~86 Ill. Adm. Code~~ 100.3200 and 100.3210 of this Part.

3) Intangible personal property. Capital gains and losses from sales or exchanges of intangible personal property are allocated to Illinois if the taxpayer has its commercial domicile in Illinois at the time of the sale or exchange. For the tests of commercial domicile, see Section ~~86 Ill. Adm. Code~~ 100.3210 of this Part.

c) Rents and royalties.

1) Real property. Rents and royalties from real property a reallocated to Illinois if the property is located in Illinois. Economic interests in minerals in place, such as oil or gas, are real property under IITA Section 303. Examples of such interests are royalties, overriding royalties, participating interests, production payments and working interests.

2) Tangible personal property. Rents and royalties from tangible personal property are allocated to Illinois:

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A) if and to the extent that the property is utilized in Illinois; or

B) in their entirety if, at the time such rents or roalties are paid or accrued, the taxpayer has its commercial domicile in Illinois and was not organized under the laws of or is not taxable with respect to such rents or royalties in the state in which the property is utilized. For the tests of taxability in another state and commercial domicile, see Sections ~~86 Ill. Adm. Code~~ 100.3200 and 100.3210 of this Part. The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property is located at the time the rental or royalty pay or obtains possession.

3) Examples. Section ~~86 Ill. Adm. Code~~ 100.3220(c) of this Part may be illustrated by the following examples:

A) Example A. A is a resident of Missouri. A purchases an interest in oil royalty under an oil and gas lease in Illinois. During 1970, A receives $2,000 in royalty payments. Under 86 Ill. Adm. Code 100.3010(c)(3)(B) the royalty income is presumed to be nonbusiness income. As such it is allocated to Illinois, being derived from real property located in Illinois.

B) Example B. B is a resident of Iowa, with a summer home in Illinois. B owns a sailboat which he keeps in Iowa during the winter months and tows to Illinois by trailer for use in the summer. During 1970, B is unable to visit his summer home, and rents his sailboat for the months of July through September to C, the owner of the adjoining property in Illinois. Under Section ~~86 Ill. Adm. Code~~ 100.3010(c)(3)(B) of this Part, the rent is presumed to be nonbusiness income. C takes the boat from Iowa to Illinois and returns it to B in Iowa on October 1, 1970. Although the boat is physically located in Iowa during the months of January through June and October through December, the rental period is only the months of July through September. During the rental period, the boat is located in Illinois. Hence, it is utilized in Illinois,

and, accordingly, the rental income is allocated to Illinois.

C) Example C. The facts are the same as in Example (B), except that B rents the boat through a want ad and does not know C, nor where he uses the boat during the months of July through September. In such case, since C takes possession of the boat in Iowa, it is utilized in Iowa and, accordingly, the rental income is not allocated to Illinois.

d) Patent and copyright royalties.

1) Allocation. Patent and copyright royalties are allocated to Illinois:

A) if and to the extent that the patent or copyright is utilized by the payor of the royalties in Illinois; or

B) if and to the extent that the patent or copyright is utilized by the payor of the royalties in a state in which the taxpayer is not taxable with respect to such royalties and, at the time such royalties are paid or accrued, the taxpayer has its commercial domicile in Illinois. For the tests of taxability in another state and commercial domicile, see Sections ~~86--Ill.-Adm.-Code~~ 100.3200 and 100.3210 of this Part.

2) Utilization.

A) Patents. A patent is utilized in a state to the extentthatitisemployedin production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures of the royalty payor do not reflect states of utilization, the patent is utilized in Illinois if the taxpayer has its commercial domicile in Illinois.

B) Copyrights. A copyright is utilized in a state to the extent that printing or other publication originates in that state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures of the royalty payor do not reflect states of utilization, the copyright is utilized in Illinois if the taxpayer has its commercial domicile in Illinois.

3) Example. A, a resident of New York, is not in the business of being an inventor, but owns a patent on a single invention, which he licenses to a manufacturer of automatic garage door openers. Royalties are a percentage of the manufacturer's sales. The manufacturer has plants situated in Missouri, Illinois and Indiana. Under Section ~~86--Ill.-Adm.-Code~~ 100.3050(c)(2)(B) of this Part, the royalty income is presumed to be nonbusiness income. If A's royalties can be allocated to

Missouri, Illinois and Indiana on the basis of sales from the manufacturer's plants in each of those states, those royalties attributable to sales from the Illinois plant are allocated to Illinois. If, however, the manufacturer's accounting procedures do not reflect sales from the specific plants, but royalties are paid on the basis of total sales not broken down by plant, then, since A is not a resident of Illinois, the patent is not utilized in Illinois and none of the royalties are allocated to Illinois.

e) Taxability in another state. For the test of taxability in another state, see Section ~~86--Ill.-Adm.-Code~~ 100.3200 of this Part.

f) Interest and dividends. For allocation of interest and dividends, see Section ~~86-Ill.-Adm.-Code~~ 100.3300(b)(2) of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)

a) Residents. All items of income or deduction which are taken into account in the computation of base income for the taxable year by a resident of Illinois are allocated to Illinois under IITA Section 301(a) and enter into the computation of such person's net income under IITA Section 202. For the definition of a resident see IITA Section 1501(a)(20) ~~(1)(B)~~ and Section ~~26-U.S.C.~~ 100.3020 of this Part.

b) Other persons.

1) In general. In order to compute net income under IITA Section 202 of persons other than residents of Illinois, it is necessary to determine that portion of each item of income and deduction taken into account in the computation of base income for the taxable year which is allocable to Illinois. In general, the allocation of items of compensation and of items of deduction directly allocable thereto is governed by IITA Section 302 (see Section ~~86--Ill.--Adm.--Code~~ 100.3120 of this Part). The allocation of certain specified items of income, to the extent such items constitute nonbusiness income, together with items of deduction directly allocable thereto, is governed by IITA Section 303 (see Section ~~86-Ill.-Adm.--Code~~ 100.3220 of this Part). The allocation and apportionment of business income is governed by IITA Section 304 (see Sections ~~86-Ill.-Adm.-Code~~ 100.3310, 100.3350, 100.3360 and 100.3370 of this Part.) An item of income or deduction specifically allocated or apportioned pursuant to one of the foregoing sections is allocated to Illinois and enters into the

computation of net income of a person other than a resident only to the extent provided by such allocation or apportionment section. All other items of income and deductions are allocated under IITA Section 301(b)(2).

2) Unspecified items. An item of income or deduction which is taken into account in the computation of base income for the taxable year by a person other than a resident of Illinois, and which is not otherwise specifically allocated or apportioned, in the case of an individual, trust or estate, is not allocated to Illinois. In the case of a corporation, such items are allocated to Illinois if the corporation has its commercial domicile in Illinois at the time such item is paid, incurred or accrued. For the definition of commercial domicile, see IITA Section 1501(a)(2) and Section ~~86 Ill. Adm. Code~~ 100.3210 of this Part. Examples of items of income which (to the extent such items constitute nonbusiness income) are not otherwise specifically allocated or apportioned are interest, dividends, items of income taken into account under the provisions of 26 USC ~~U.S.C.~~ 401 through 425, benefit payments received by a beneficiary of a supplemental unemployment benefit trust which is referred to in 26 USC ~~U.S.C.~~ 501(c)(17) and royalties from intangible personal property (other than patent and copyright royalties).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.3320 Business Income of Persons Other Than Residents(IITA Section 304) -- Apportionment (Repealed)

~~a) In general. If the business activity in respect to any trade or business of a person occurs both within and without this state, and if by reason of such business activity such person is taxable in another state, the portion of the net income arising from such trade or business which is derived from sources within Illinois shall be determined by apportionment in accordance with these regulations.~~

~~b) Unitary business apportionment.~~

~~1) Where two or more persons are engaged in a unitary business (see 86 Ill. Adm. Code 100.3010(c)), a part of which is conducted in Illinois by one or more members of the group, the business income attributable to Illinois by any such member or members as may be subject to the taxing jurisdiction of this state shall be apportioned by multiplying the group's unitary business income by the average of the property, payroll and sales factors. These factors are determined by dividing the Illinois property, payroll and sales figures for each person filing an Illinois return by the total property, payroll and sales figures of all the members of the unitary group. The property, payroll and sales factors are to be determined in accordance with the rules described in 86 Ill. Adm. Code 100.3350, 100.3360 and 100.3370, respectively. (But see paragraph (5) below.) The Department may require the submission of supporting schedules in columnar form to support the computations required under this paragraph.~~

~~2) For an example see Appendix A, Table A.~~

~~c) Unitary business group; members having different accounting periods. Utilization of the combined method of apportionment will ordinarily require that unitary income be determined generally on the same accounting period for all members. Where the members' accounting periods differ, the parent's accounting period will be utilized. Where there is no common parent, the income of the group's members shall be determined generally on the basis of the accounting period of the member filing an Illinois return who is expected to have, on a recurring basis, the greater (or greatest) liability for Illinois income tax. In complying with this requirement, any particular member, in determining the proper income to be included in the appropriate accounting period, may reflect income and related deductions as may (or may not) be allocable to Illinois in accordance with the actual book or accounting entries for the relevant period. On the other hand, the member may determine income based on the number of months falling within the required common accounting period. For example, if one member utilizes a calendar year, and the common accounting period ends October 31, 1981, the member will include 2/12 of the income for the year ended December 31, 1980, and 10/12 of the income for the year ended December 31, 1981. Estimates may be necessary where this proration method involves a member's year which ends subsequent to the common accounting period.~~

~~d) Unitary business income; eliminations; intercompany transactions. Elimination of income and deduction items arising from transactions between members of the group must be done whenever necessary to avoid distortion of the group's income, the denominators used by all members of the group in calculating apportionment factors, or the numerators used by any particular member of the group in calculating its apportionment factors.~~

~~e) Unitary business income apportionment; factors; insurance companies; financial organizations; transportation companies; adjustments.~~

~~1) There may be instances where a unitary group of corporations includes one or more insurance companies (see IITA Section 304(b)), financial organizations (see IITA Sections 304(c) and 1501(a)(8)), or transportation companies (see IITA Section 304(d)), as well as members generally entitled to utilize, in apportioning business income, the three factor formula of property, payroll and sales specified in IITA Section 304(a). It will be necessary, in accounting for the~~

~~and sales figures of all the members of the unitary group. The property, payroll and sales factors are to be determined in accordance with the rules described in 86 Ill. Adm. Code 100.3350, 100.3360 and 100.3370, respectively. (But see paragraph (5) below.) The Department may require the submission of supporting schedules in columnar form to support the computations required under this paragraph.~~

~~2) For an example see Appendix A, Table A.~~

~~c) Unitary business group; members having different accounting periods. Utilization of the combined method of apportionment will ordinarily require that unitary income be determined generally on the same accounting period for all members. Where the members' accounting periods differ, the parent's accounting period will be utilized. Where there is no common parent, the income of the group's members shall be determined generally on the basis of the accounting period of the member filing an Illinois return who is expected to have, on a recurring basis, the greater (or greatest) liability for Illinois income tax. In complying with this requirement, any particular member, in determining the proper income to be included in the appropriate accounting period, may reflect income and related deductions as may (or may not) be allocable to Illinois in accordance with the actual book or accounting entries for the relevant period. On the other hand, the member may determine income based on the number of months falling within the required common accounting period. For example, if one member utilizes a calendar year, and the common accounting period ends October 31, 1981, the member will include 2/12 of the income for the year ended December 31, 1980, and 10/12 of the income for the year ended December 31, 1981. Estimates may be necessary where this proration method involves a member's year which ends subsequent to the common accounting period.~~

~~d) Unitary business income; eliminations; intercompany transactions. Elimination of income and deduction items arising from transactions between members of the group must be done whenever necessary to avoid distortion of the group's income, the denominators used by all members of the group in calculating apportionment factors, or the numerators used by any particular member of the group in calculating its apportionment factors.~~

~~e) Unitary business income apportionment; factors; insurance companies; financial organizations; transportation companies; adjustments.~~

~~1) There may be instances where a unitary group of corporations includes one or more insurance companies (see IITA Section 304(b)), financial organizations (see IITA Sections 304(c) and 1501(a)(8)), or transportation companies (see IITA Section 304(d)), as well as members generally entitled to utilize, in apportioning business income, the three factor formula of property, payroll and sales specified in IITA Section 304(a). It will be necessary, in accounting for the~~

income-producing factors of insurance companies, financial organizations, or transportation companies, to reflect in the combined apportionment method utilized by the group the apportionment factors specified for such companies in IITA Sections 304(b), (c), or (d), respectively. The reflection, for Illinois combined method purposes, will be to require the computation of the regular single factor formula for such companies and adjust the combined denominator of the sales factor for the three factor members of the group. In addition, it will be necessary to reflect, in the payroll and property factors of the three factor members of the group, the payroll and property of the single factor members.

2) For an example see Appendix A, Table B.

f) Unitary business group; changes in membership and the treatment of part-year members.

1) Scope. Whenever the membership of a unitary business group (as defined in IITA Section 1501(a)(28) as amended by Public Act 82-1029 applicable to all taxable years ending on or after December 13, 1982, and as defined previously by 86 Ill. Adm. Code 100.3010) is altered during the common accounting period for combined apportionment computation (see paragraph 3 of subsection (b) of this section), the members of the group must compute their liabilities in accordance with this paragraph (f). A unitary business group's membership may be altered by the entry of a new member or by the departure of an old member, such entry or departure ordinarily resulting from stock transactions which create or destroy the common ownership relative to the corporation entering or leaving the group.

2) General rule. If a corporation becomes a member of a group during the group's common accounting period or loses its status as a member during the group's common accounting period, then other members of the group, in computing their liabilities, must take into account the property, payroll, sales and income data of the part year member for the portion of the common accounting period that it was a member of the group. Likewise, the corporation which is a part year member of a group must make a dual computation to arrive at its liability:

A) its business income attributable to the portion of its year that it was a member of a group must be combined with the business income which other members of the group had for that same part year and must be apportioned to Illinois on a combined apportionment basis, and

B) its business income attributable to the portion of its year in which it was not a member of a group must be apportioned to Illinois on the basis of its own Illinois property, payroll, and sales for that part year as respective fractions of its own total property,

payroll, and sales for that part year.

3) Examples. In each of the examples that follow, Corporation A is engaged in a unitary business with its wholly-owned subsidiaries, Corporations B and C, and the group's common accounting period is the calendar year.

A) EXAMPLE 1. On June 1, 1984, Corporation A acquired shares of stock in Corporation B in sufficient number to raise its ownership interest in Corporation B to more than 50%. After the acquisition, Corporation B is a member of the same unitary business group under Section 1501(a)(28) as Corporations A, B and C. In computing its liability for 1984, Corporation B must compute business income apportionable to Illinois for each of the two part years, January 1 through May 31, 1984 and June 1 through December 31, 1984. To do this, it shall take the following steps:

i) Calculate its total business income for the year in the usual manner, starting with federal taxable income (or equivalent), making addition and subtraction modifications, netting out nonbusiness income and partnership income;

ii) Divide the total business income to Step (i) between the two part years either on a proration or financial accounting basis (see subparagraph (B));

iii) Ascertain its total payroll, total sales, and average total property for the year;

iv) Divide its total payroll and total sales of Step (iii) between the two part years using either the proration or financial accounting method whichever was used to divide its business income in Step (ii);

v) Ascertain the average total property for each of the two part years. When the average total property figures computed in this step for the two part years are themselves averaged together on a weighted basis according to the number of months in each part year, the result should be the average total property for the year determined under Step (iii) above;

vi) Ascertain its payroll and sales for Illinois and average Illinois property for the entire taxable year and for each of the two part years, the division between the two part years being consistent in method with the division of business income in Step (ii) above and the division between the part years of the "total" property, payroll, and sales figures in Steps (iv) and (v) above;

vii) Apportion its business income for the January 1

through May 31 part year, computed under Step (ii), above, by respectively dividing Illinois payroll, Illinois sales, and average Illinois property for that part-year as determined under Step (vi) above by the total payroll, total sales, and average total payroll for that part year as determined under Steps (iv) and (v) above, averaging the results of these division, and multiplying the average by its business income for the January 1 through May 31 part-year.

viii) Combine its business income for the June 1 through December 31 part-year, computed under Step (iii) above, with a comparable figure for Corporations A, B and C for the June 1 through December 31, part year.

NOTE: The business incomes of Corporations A, B and C for the June 1 through December 31 part year must be computed on the same basis proration or financial accounting employed by Corporation B in Steps (ii), (iv) and (vi) above.

ix) Combined its total payroll, total sales, and total average property for the June 1 through December 31 part-year withcomparablefiguresfor Corporations A, B and C for the June 1 through December 31 part year.

NOTE: The total payroll, total sales, and total average property of Corporations A, B and C for the June 1 through December 31 part-year must also be computed on the same basis proration or financial accounting employed by Corporation B in Steps (ii), (iv) and (vi) above.

x) Taking the combined business income for the part year June 1 through December 31 as computed under Step (viii) above, determine Corporation B's apportionable share by respectively dividing the Illinois payroll, Illinois sales, and average Illinois property of Corporation B for the part year, calculated under Step (vi) above, by the combined total payroll, the combined total sales, and the combined total average property for that part-year of Corporations A, B, C and B, averaging the results of these divisions, and multiplying the average by the combined business income for the June 1 through December 31 part year determined under Step (viii).

xi) Add the business income apportionable to Illinois for Corporation B for the January 1 through May 31 part year computed under Step (vii) to the

businessincomeapportionableto Illinois for Corporation B for the June 1 through December 31 part year computed under Step (x).

B) EXAMPLE 2: The facts are all the same as in Example (1), except in this Example Corporation A acquires its shares of stock in Corporation B from Corporation E. Prior to the acquisition, Corporation B had been under common ownership with and a member of the same unitary business group as Corporations E, F and G, none of which were under common ownership with Corporations A, B or C. As in Example (1), in computing its Illinois income tax liability for 1984, Corporation B will have to compute business income apportionable to Illinois for the January 1 through May 31 part year and business income apportionable to Illinois for the June 1 through December 31 part year. It will do this by following the same general procedures outlined in the 11 steps for Example (1). Of course, for the January 1 through May 31 part year, the business income that will be apportioned will be the combined business income of Corporations B, E, F and G, while for the part-year June 1 through December 31, the business income that is apportioned will be the combined business income of Corporations A, B, C and B. Likewise, for the part year January 1 through May 31, the denominators of the property, payroll and sales factor will be composed of combined totals for the part-year of Corporations B, E, F and G, while for the part-year June 1 through December 31 the denominators of the property, payroll, and sales factors will be composed of the combined totals for that part year of Corporations A, B, C and B.

4) Accounting. A corporation which is a part-year member of a group (or which is a member of one group for part of the year and a second group for the remainder of the year) may attribute business income to the different portions of its taxable year by prorating its business income for the entire taxable year on the basis of the number of months falling within the respective periods. For instance, in the examples of subparagraph (B), Corporation B could attribute 5/12ths of its total business income for 1984 to the period January 1 through May 31, 1984 and 7/12ths to the period June 1 through December 31, 1984. Alternatively, a corporation that is a member of a unitary business group for part of the year or a corporation that is a member of two different groups during its taxable year may divide its business income for the taxable year into revenue and expense elements and allocate those elements between the respective periods on the basis of generally accepted accounting principles applied as though those periods were separate and distinct for financial

reporting purposes. However, the part-year member divides its business income between the respective portions of its taxable year, all other corporations with which it is related for combined apportionment purposes for the taxable year shall be required, in computing their liabilities, to use the same method in accounting for the respective portions of the taxable year.

EXAMPLE: Assume all the same facts existed in Example (2) of subparagraph (C), Corporation B is in the retail business and 50% of its business income was actually generated by sales occurring during December 1984. In computing its liability for 1984, Corporation B elects to prorate its business income between the January 1 through May 31 portion of its taxable year and the June 1 through December 31 portion of its taxable year on the number of months basis, meaning that approximately 42% of its business income was combined with the business incomes for 1984 of Corporations E, F and G while approximately 58% of its business income was combined with the business incomes for 1984 of Corporations A, B and C. Corporations E, F and G are not free to compute their liabilities for 1984 premised on financial accounting allocation of the business income of Corporation B showing 50% of Corporation B's business income attributable to the month of December 1984. Corporations E, F and G are required to compute their liabilities for 1984 premised on the same 42/58 percent division of Corporation B's business income as Corporation B used to compute its own liability.

5) Eliminations. intercompany transactions. There may be instances where elimination of income and deduction items arising from transactions between members of the group must be made in order to avoid distortion of the group's income. Such eliminations as may be appropriate will be determined upon the same basis as that utilized in the computation for the division of business income illustrated in Step (ii) of Example (1) in subparagraph (C) either the proration or financial accounting method. Thus, in the circumstances described in the example in subparagraph (B), any such eliminations would be determined on the basis of the proration method.

6) Application of the U.S. business activity 80-20 test to prospective part-year members. The test prescribed by Section 1501(a)(20) of the Act for membership in a unitary business group that the prospective member must have more than 20% of its business activity in the United States should be applied only to that part of the year for which the prospective member otherwise qualifies for membership in the unitary business group.

EXAMPLE: On June 1, 1974, Corporation X, a calendar year corporation, acquires shares of stock in Corporation Y, also a calendar year corporation, in sufficient numbers to raise its ownership interest in Corporation Y to more than 50%. Corporation X is a member of a unitary group for 1984 including Corporations U, V and W. In order for Corporation Y to be a member of that same group for the part year June 1 1984 to December 31, 1984, it must have more than 20% of its business activity for that part year, measured by its property and payroll for that part year, inside the United States.

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 100.3360 Payroll Factor (IITA Section 304)

a) In general.

1) The payroll factor of the apportionment formula for each trade or business of an employer shall include the total amount paid by the employer in the regular course of its trade or business for compensation during the tax period.

2) The total amount "paid" to employees is determined upon the basis of the employer's accounting method. If the employer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. The compensation of any employee on account of activities which are connected with the production of nonbusiness income shall be excluded from the factor.

A) Example A: A corporation uses some of its employees in the construction of a storage building which, upon completion, is used in the regular course of the corporation's trade or business. The wages paid to those employees are treated as a capital expenditure by the corporation. The amount of such wages is included in the payroll factor.

B) Example B: A corporation owns various securities which it holds as an investment separate and apart from its trade or business. The management of the corporation's investment portfolio is the only duty of Mr. X, an employee. The salary paid to Mr. X is excluded from the payroll factor.

3) The term "compensation" is defined in Section 86 Ill. Adm. Code 100.3100 of this Part these regulations.

4) The term "employee" is defined in Section 86 Ill. Adm. Code 100.3100 of this Part these regulations.

5) In filing returns with this state, if the employer departs from or modifies the treatment of compensation paid used in returns for prior years, the employer shall disclose

in the return for the current year the nature and extent of the modification. If the returns or reports filed by the employer with all states to which the employer reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the treatment of compensation paid, the employer shall disclose in its return to this state the nature and extent of the variance.

b) Denominator. The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the employer is immune from taxation, by Public Law 86-272 for example, is included in the denominator of the payroll factor. Example: A corporation has employees in its state of legal domicile (State A) and is taxable in State B. In addition the corporation has other employees whose services are performed entirely in State C where the corporation is immune from taxation by Public Law 86-272. As to these latter employees, the compensation will be assigned to State C where their services are performed (i.e., included in the denominator -- but not the numerator -- of the payroll factor) even though the corporation is not taxable in State C.

c) Numerator. The numerator of the payroll factor is the total amount paid in this State ~~state~~ during the tax period by the employer for compensation. The tests in IITA Section 304(a)(2) to be applied in determining whether compensation is paid in this State ~~state~~ are derived from the Model Unemployment Compensation Act.

d) Compensation paid in this State ~~state~~. The term "compensation paid in this State ~~state~~" is explained in Section ~~86 Ill. Adm. Code~~ 100.3120 of this Part ~~these regulations~~.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)

a) Tentative Payments. An extension of time to file a return permitted under this Section is not to be construed as an extension by the Department of the time for payment of tax due on such return.

b) Automatic Illinois Extensions. The Department will grant an automatic extension of 6 months (7 months for corporations) to file any Illinois income tax return except Form IL-941. No application form need be filed by a taxpayer to obtain this extension. If a balance of tentative tax is due, the taxpayer should transmit the payment with the appropriate form (Form IL-505-I and Form IL-505-B) by the original filing due date in order to avoid the penalty for

underpayment of tax (IITA Section 1005) and statutory interest (IITA Section 1003).

c) Additional Extensions Beyond the Automatic Extension Period. The Department will approve an extension of more than 6 months (7 months for corporations) if an extension of more than 6 months is granted by the Internal Revenue Service. For corporations the additional Illinois extension will be one month beyond any approved federal extension of longer than 6 months. For all other taxpayers, the additional extension will be for the length of time approved by the Internal Revenue Service. All taxpayers must attach a copy of the approved federal extension to their return when it is filed.

d) Penalty and Interest on Underpayment of Tax.

1) IITA Section 1005 Penalty

A penalty of 6% per annum on any tax underpayment shall be assessed if the amount of tax required to be shown on a return is not paid on or before the date required for filing the return (determined without regard to any extension of time to file) for returns due prior to January 1, 1994. For returns due on and after January 1, 1994, the penalty shall be determined in the manner and at the rate prescribed by the Uniform Penalty and Interest Act [35 ILCS 735/3] ("the UPIA") and 86 Ill. Adm. Code 700. However, (as specified in the Internal Revenue Code Regulations, 26 CFR 301.6651-1(c)(3)), no penalty will be assessed if the amount of the underpayment is 10% or less of the amount of tax required to be shown on the return and the taxpayer pays such amount due by the extended due date.

2) IITA Section 1003 Interest. Interest at the rate of 9% per annum (or at such adjusted rate as is established under IRC Section 6621(b)) will be assessed for the period from the due date of the return to the date of payment for any amount of tax not paid on or before the due date (determined without regard to any extension) for returns due before January 1, 1994. For returns due on and after January 1, 1994, the penalty shall be determined in the manner and at the rate prescribed by the Uniform Penalty and Interest Act [35 ILCS 735/3] ("the UPIA") and 86 Ill. Adm. Code 700.

e) Late Filing Penalty.

1) The Department will not assess IITA Section 1001 late filing penalty for the period of any extension provided by the IITA and this regulation.

2) For returns due prior to January 1, 1994, *in case of failure to file any tax return required under this Act on the date prescribed therefor (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause* (as defined in Section 6651 of the Internal Revenue Code, 26 USC ~~U.S.C.~~ 6651) *there shall be added as a penalty to the amount required to*

be shown as tax on such return 7.5% of the amount of such tax if the failure is not for more than one month, with an additional 7.5% for each additional month or fraction thereof during which such failure continues, not exceeding 37.5% in the aggregate. (Section 1001 of the IITA, effective until January 1, 1994).

3) For returns due on and after January 1, 1994, *in case of failure to file any tax return required under this Act on the date prescribed therefor, (determined with regard to any extensions of time for filing) there shall be added as a penalty the amount prescribed by Section 3-3 of the Uniform Penalty and Interest Act.* (Section 1001 of the IITA, effective January 1, 1994)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)

a) In general. A corporation that is a member of an affiliated group filing a consolidated federal return for a particular taxable year must compute its separate federal taxable income equivalent for Illinois income tax purposes in accordance with IITA Section 203(e)(2)(E). Such a corporation must, however, also calculate its "separate taxable income" for purposes of the federal consolidated return and its supporting statements in accordance with Treasury Reg. Section 1.1502-12 ~~26 CFR 1.1502-15~~. Such a calculation for federal purposes involves certain positive and negative modifications to what the corporation's federal taxable income would be were it not a member of an affiliated group filing a consolidated federal income tax return. Therefore, although the computation of "separate taxable income" under Treasury Reg. Section 1.1502-12 ~~26 CFR 1.1502-15~~ does not exactly equate with the computation of "federal taxable income" and IITA Section 203(e)(2)(E), it should nevertheless be possible to reconcile the "separate taxable income" of the consolidated return (as reflected on supporting statements to the consolidated return) with the "federal taxable income" of the pro forma U.S. 1120 required for Illinois purposes by reversing the positive and negative modifications of Treasury Reg. Section 1.1502-12 ~~26 CFR 1.1502-15~~ and by executing the mandated elections of IITA Section 203(e)(2)(E). Consequently, if the federal consolidated return of an affiliated group is later adjusted for federal purposes with the meaning of Section 403(b) of the Act, and if the federal adjustment alters the computation of "separate taxable income" of any member under Treasury Reg. Section 1.1502-12 ~~26 CFR 1.1502-15~~, then such an adjustment shall require notification to

the Illinois Department of Revenue pursuant to IITA Section 506(b) to the extent such adjustment enters into the computation of such taxpayer's base income under the Act.

b) Certain adjustments in loss carryback years. In certain limited instances, it is possible that a member of an affiliated group will have a pro forma federal change for Illinois purposes to its federal taxable income of a prior year (as reported to Illinois under whatever paragraph of IITA Section 203(e) applied in the prior year). This would result from the pro forma federal carryback of a net operating loss or capital loss for Illinois purposes which was not identically carried back for federal purposes by reason of the fact that it originated in a year (under IITA Section 203(e)(2)(E), carryback of net operating losses on a separate return basis by members of affiliated groups is allowed for Illinois purposes only from loss years ending before September 12, 1977 and ending from November 7, 1978 to December 30, 1980) for which the corporation participated in the filing of a consolidated return and in which consolidated return year the loss was partly or wholly absorbed for federal purposes by income of other members of the affiliated group. In such instances, any claim for refund of Illinois income tax must be filed not later than 3 years and 20 days after the last day of the taxable year in which the loss occurred which generated the pro forma change, or two years and 20 days from the date the amount of loss as reflected on the consolidated return and supporting statements of the loss year is finally determined for federal purposes (within the meaning of IITA Section 403(b)) whichever is later.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART P: COMBINED RETURNS

Section 100.5250 Liability for Combined Tax, Penalty and Interest

a) Joint and several liability of members of a combined group. The members of a combined group shall be jointly and severally liable for the combined tax, penalty and interest computed in accordance with this Subpart P, as well as the Uniform Penalty and Interest Act and rules adopted pursuant to the UPIA at 86 Ill. Adm. Code 700.

b) Effect of intercompany agreements. No agreement entered into by one or more members of a combined group with any other member of such group or with any other person shall in any case have the effect of reducing the liability prescribed under this Section.

c) Penalties. If a penalty is imposed under the IITA and the UPIA with respect to a combined return year, the amount shall be based on the combined tax liability or deficiency for the common taxable year.

1) For purposes of applying the penalties for failure to file a

return imposed by Section 3-3(a) and Section 3-3(a-5) of the Uniform Penalty and Interest Act (UPIA) [35 ILCS 735/3-3]:

A) A corporation which erroneously fails to join in the filing of a combined return, but which timely files a separate Illinois income tax return or joins in the timely filing of a combined return for another combined group, shall not be subject to any penalty. In determining whether such separate or combined return is timely filed, the separate taxable year of such corporation or the common taxable year of the combined group such corporation erroneously joined shall be used, rather than the common taxable year of the combined group with which such corporation should have filed.

B) A corporation which erroneously fails to join in the filing of a combined return, and which fails, without reasonable cause, to timely file a separate Illinois income tax return or to join in the timely filing of a combined return for another combined group, shall be subject to penalty computed on the amount of tax shown (or required to be shown) due on the combined return for its proper combined group. Because it is the duty of the designated agent, acting on behalf of the combined group, to include such corporation in the combined return, the members of the combined groups shall be jointly and severally liable for the penalty.

C) A corporation which erroneously joins in the timely filing of a combined return shall not be subject to penalty for failure to file a return.

2) For purposes of applying the penalty for failure to timely pay tax imposed by UPIA Section 3-3(b) [35 ILCS 735/3-3(b)]:

A) In a case where a corporation erroneously fails to join in the filing of a combined return for a common taxable year, neither that corporation nor the combined group shall be subject to any failure-to-pay penalty under UPIA Section 3-3(b)(1) if timely payment is made of the tax shown on a separate return filed by such corporation or on a combined return in which it erroneously joins in filing for each taxable year ending with or within such common taxable year. Unless there is reasonable cause for the failure of such corporation to join in the filing of the combined return, such corporation and the combined group may be jointly and severally liable for a penalty under UPIA Section 3-3(b)(2) for failure to pay any additional amount which would have been shown on the combined return had such corporation been included.

B) A corporation which erroneously fails to join in the filing of a combined return for a common taxable year and also fails to timely pay the tax shown on a separate return it files or on a combined return in which it joins in filing for each taxable year ending with or within such common taxable year shall be subject to penalty under UPIA Section 3-3(b)(1) only for failure to pay the tax shown on the return it actually files or joins in filing. Unless there is reasonable cause for the failure of such corporation to join in the filing of the combined return, such corporation and the combined group may be jointly and severally liable for a penalty under UPIA Section 3-3(b)(2) for failure to pay any additional amount which would have been shown on the combined return had such corporation been included.

C) If a corporation erroneously joins in the filing of a combined return, neither such corporation nor the combined group shall be subject to penalty under UPIA Section 3-3(b)(2) for failure to pay any tax required to be shown on a separate company return and the combined group shall not be subject to penalty under UPIA Section 3-3(b)(2) for failure to pay any increase in tax resulting from the exclusion of such corporation from the combined group if the tax timely paid with the original combined return exceeds the total tax required to be shown on the correct returns.

3) For purposes of applying the negligence penalty imposed by UPIA Section 3-5 [35 ILCS 735/3-5] or the fraud penalty imposed by UPIA Section 3-6 [35 ILCS 735/3-6] in any case in which a corporation erroneously joins or fails to join in the filing of a combined return, the penalty may be imposed on any deficiency resulting from such error, without taking into account any overpayment which may have resulted from the error.

Example. Corporations A, B and C meet all the requirements of a unitary business group, except that Corporations A and B are financial organizations which cannot be included in the same unitary business group as Corporation C, a manufacturer. On a separate-return basis, Corporation A has an Illinois net loss of $500, Corporation B has Illinois net income of $300 and Corporation C has Illinois net income of $700. Corporations A and C file a combined return reporting combined Illinois net income of $200, while Corporation B files a separate return reporting Illinois net income of $300. On audit, the Department corrects the liabilities by combining Corporations A and B, which eliminates Corporation B's separate return income and entitles them to a refund of the taxes paid by Corporation B, and by determining a separate return deficiency for Corporation C. If the combination of Corporations B and C on the original return was due to negligence or an intent to defraud, Corporation C will be subject to the applicable penalty on its entire deficiency without regard to the overpayment made by Corporation B.

4) For purposes of applying the penalty for failure to pay estimated taxes under IITA Section 804, see Section 100.5230 of this Part.

d) Interest. If interest is imposed under the IITA, at the rate

determined under the UPIA, with respect to a combined return year, the amount shall be based on the combined tax liability or deficiency for the common taxable year. For purposes of computing any combined overpayment or underpayment on which interest is imposed:

1) in a case in which one or more corporations erroneously failed to join in the filing of the combined return, all payments, credits and other amounts collected from such corporations which are properly attributable to the common taxable year shall be treated as having been paid by the combined group for such common taxable year; and

2) in a case where one or more corporations are erroneously included in a combined return, the designated agent may allocate to each such corporation some or all of the payments, credits and other amounts collected from the combined group which are properly attributable to the common taxable year, and all overpayments and underpayments for such corporations and the combined group will be computed in accordance with such allocation. The amount of estimated tax payments allocated to each such corporation pursuant to this subsection (d)(2) must be consistent with the amounts allocated to such corporation under Section 100.5230(a) and ~~Section 100.5230~~(g) of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7000 Requirement of Withholding (IITA Section 701)

a) General rules. Every employer maintaining an office or transacting business within this State and required under the provisions of 26 USC ~~U.S.C.~~ 3401 through 3404 to withhold and pay federal income tax on compensation paid in this State (see Section ~~86--Ill.Adm.Code~~ 100.7010 of this Part) to an individual is required to deduct and withhold from such compensation for each payroll period (as defined in 26 USC ~~U.S.C.~~ 3401), an amount computed in accordance with IITA Section 701 and 702. Illinois income tax is not required to be withheld on any compensation paid in this State of a character which is not subject to federal income tax withholding (whether or not such compensation is subject to withholding for federal taxes other than income tax, e.g., F.I.C.A. (Social Security taxes). (As to what constitutes "transacting business within this State", see Section ~~86--Ill.Adm.Code~~ 100.7020 of this Part~~.~~.)

b) Example. This section may be illustrated by the following examples:

1) Example 1: A is a typist in the offices of B corporation, where she has worked regularly for two months. A is, however, supplied to B corporation by C, a temporary help agency located in Illinois. C renders a weekly bill to B corporation for A's services, and C then pays A. B corporation is not A's "employer" within 26 USC ~~U.S.C.~~ 3401(d) and B corporation is therefore not required by the Internal Revenue Code to withhold a tax on A's compensation. Since B corporation is not required to withhold a tax for federal purposes on A's compensation, it is not required to do so for Illinois purposes. The temporary help agency, however, is required to withhold from A's compensation for federal purposes and must similarly do so for Illinois purposes.

2) Example 2: A is employed as a cook by Mr. and Mrs. B. The B's are required to withhold FICA (i.e., Social Security) tax from compensation paid to A, but are not required to withhold from such compensation for income tax under the Internal Revenue Code because, under 26 USC ~~U.S.C.~~ 3401(a)(3), A's compensation does not constitute "wages". Since the B's are not required to withhold income tax for federal purposes, they are not required to do so for Illinois purposes.

3) Example 3: A is a full time worker on B's wheat farm. A's duties include soil cultivation, raising and harvesting wheat, and maintenance of farm tools and equipment. B is not required to withhold from A's compensation for federal income tax purposes since, under 26 USC ~~U.S.C.~~ 3401(a)(2), A's compensation does not constitute "wages". Therefore B is not required to withhold for Illinois tax purposes.

4) Example 4: A is a factory worker for B corporation. When A reaches retirement age, he begins receiving a pension from B corporation's qualified pension trust. Under 26 USC ~~U.S.C.~~ 3401(a)(12)(A), A's pension payments do not constitute "wages". Therefore, neither B nor the pension trust is required to withhold income tax for federal purposes and, accordingly, neither would withhold for Illinois tax purposes.

5) Example 5: A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract, A is entitled to a stated annual salary and to additional compensation of $10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid $5,000 while a resident of Illinois. The $5,000 is not excluded from "wages" under 26 USC ~~U.S.C.~~ 3401(a); therefore, B is required to withhold federal income tax, and, since it is compensation "paid in this State"

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(see Section ~~86 Ill. Adm. Code~~ 100.7010(g) of this Part), B must withhold Illinois income tax on A's deferred compensation.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.7010 Compensation Paid in this State (IITA Section 701)

a) General rules

1) Withholding is required with respect to "compensation paid in this State" - but see Section 100.7090 with regard to reciprocal withholding exemption agreements for employees residing in certain states. Illinois will recognize reciprocal withholding exemption agreements for those individuals subject to withholding by virtue of P.A. 87-880, to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:

A) The individual's service is localized in this State because it is performed entirely within this State;

B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed within this State; or

C) The individual's service is not localized in any state but some of the service is performed within this State and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

D) For purposes of subsection (a)(1)(A), *beginning with taxable years ending on or after December 31, 1992, for* all persons who are members of professional sports teams that are *residents of states that impose a comparable tax liability on* all persons who are members of professional sports teams that are *residents of this State,..., in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State.* (IITA Section 304(a)(2)(B))

2) The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A) above, it could not also be compensation paid in Illinois.

b) Place of residence of employee

1) Except in the limited circumstances referred to in subsection (a)(1)(C) above and subsections (b)(2) and (3) below, the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and is, therefore, irrelevant to the determination of whether withholding is required with respect to such employee. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.

3) Federal law also affects the authority of the State to withhold income tax from employees of certain water carriers. 49 USCA ~~U.S.C.A.~~ 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.

c) Localization tests

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1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections ~~subsection~~ (a)(1)(A) and (B) above, no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)

2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B) above, the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.

3) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.

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4) This Section may be illustrated by the following examples:

A) A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.

B) A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.

C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) above because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (a)(1)(C) ~~(b)~~ above (see subsections (d) and (e) below ~~above~~).

D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.

E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in

Illinois. Compensation for the services which A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under IITA Sections 201 and 301(a).

d) Base of operations

1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.

2) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.

3) This Section may be illustrated by the following examples:

A) A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.

B) A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a

stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that state.

C) A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.

D) A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.

E) A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State.

F) A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.

e) Place of direction or control

1) The permanent place from which the employee's service is directed or controlled is relevant in determining whether

wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.

2) The previous subsection may be illustrated by the following examples:

A) A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

B) A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

C) A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

f) When residence is important

1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b) above).

3) Subsection (f)(1) above may be illustrated by the following example:
A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.

g) Deferred compensation

1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many such agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to

do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under any such deferred compensation agreement will be deemed to meet the tests set forth in subsection (a) above for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under such an agreement will be deemed not to be compensation paid in this State and will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120(b)(1) notwithstanding the fact that such amounts will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding.

2) Subsection (g)(1) above may be illustrated by the following example:

A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid $5,000 while a resident of Illinois. This amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.7030 Payments to Residents (IITA Section 701)

a) In general.

1) Any payment to an Illinois resident as an employee or otherwise by any payer maintaining an office or transacting business in this state shall be subject to withholding of Illinois income tax if such payments are subject to withholding of federal income tax. Any payer maintaining an office or transacting business in this state making such payments shall be considered an "employer" for purposes of IITA Article 7 and these regulations and, accordingly, will be subject to the same rules and procedures governing employers

withholding tax on compensation paid in Illinois. For example, such payers will be required to register as withholding agents, and shall be subject to the reporting (and payment) requirements of IITA Sections 703 and 704. Also, such payers will be subject to the penalties prescribed in Article 10 of the Act.

2) Payments to an Illinois resident by a payer transacting business or maintaining an office in Illinois on which federal withholding is required shall be considered "compensation paid in Illinois" for purposes of IITA Article 7 and the regulations thereunder. Illinois residents receiving such payments shall be considered "employees" for purposes of IITA Article 7 and the regulations thereunder. Thus, for example, the computation of the amount of tax to be deducted and withheld shall be made pursuant to Section ~~86-111.-Adm.-Code~~ 100.7050 and the payee shall be entitled to a withholding exemption pursuant to Section ~~86-111.-Adm.-Code~~ 100.7100 of this Part.

3) Withholding shall be required on the first payment on which withholding of federal income tax is required and shall continue to be required in respect of all such payments until withholding of federal income tax on such payments terminates pursuant to the Internal Revenue Code and the regulations thereunder.

b) Payments subject to federal withholding.

1) Withholding of Illinois income tax is required on all payments to Illinois residents on which withholding of tax is required under the Internal Revenue Code. This applies not only to compensation but to any other type of payment on which federal withholding of income tax is required. Withholding shall be considered required under the Internal Revenue Code if the payee is authorized either by the Internal Revenue Code or the regulations thereunder to request withholding of federal income tax on a particular type of payment and the payee and payer have entered into an agreement for such withholding. No authorization from the payee for Illinois withholding is necessary in this situation; the requirement of federal withholding even though voluntarily elected shall automatically impose Illinois withholding.

2) Income tax withholding requirements on certain gambling winnings.

A) General requirements. Under IITA Section 701(b) a payer of gambling winnings maintaining an office or transacting business in Illinois must withhold Illinois income tax from such winnings if the winnings are paid to an Illinois resident or to someone receiving them on behalf of an Illinois resident and if

the winnings are subject to Federal income tax withholding.

B) Residents defined. The following are Illinois residents:
   i) an individual who is in Illinois for other than a temporary or transitory purpose during the taxable year; or who is domiciled in Illinois but is absent from Illinois for a temporary or transitory purpose during the taxable year;
   ii) the estate of a decedent who at his death was domiciled in Illinois;
   iii) a trust created by a will of a decedent who at his death was domiciled in Illinois; and
   iv) an irrevocable trust, the grantor of which was domiciled in Illinois at the time such trust became irrevocable (but not including "grantor trusts" under 26 USC ~~U.S.C.~~ 671 through 678).

C) Gambling winnings from which withholding is required. Illinois income tax withholding is required if the gambling winnings are paid to a resident of Illinois and are subject to federal income tax withholding requirements. ~~Currently,--gambling--winnings--subject---to Federal--income---tax--withholding-requirements-include:--i) Proceeds-of--more-than--$5,000--from--a-wager---placed----in a----state-conducted--lottery;--ii)--Proceeds--of--more-than $1,000--from--a-wager--placed--in--a--sweepstakes,--wagering pool,-or--lottery-(other--than-a-state--conducted--lottery),- or---a----wagering--transaction--in--a-parimutuel--pool-with respect-to--horse-races,--dog-races,--or--jai--alai--if--the amount--of-such-proceeds-is-at--least-300--times-as-large-as the-amount-wagered;-and-iii)-Proceeds-of--more--than--$1,000 from--other--wagering--transactions--if-such-proceeds-are-at least-300-times-as--large--as--the--amount--of---the--wager. Bingo,--keno--and-slot-machine--winnings-are--not-subject-to the-federal-withholding-requirements.~~ For more specific information, and precise details regarding actual federal withholding requirements, see 26 USC ~~U.S.C.~~ 3402(q) and the instructions for U.S. Form 5754 available from the Internal Revenue Service.

D) Determination of winner's status as an Illinois resident - Form IL-5754. At the time the winnings are paid, Form IL-5754, Statement by Person(s) Receiving Gambling Winnings, must be completed. The person (or persons) receiving the winnings must identify himself and any other winners by indicating name, address, state of residence, taxpayer identifying number and amount won. If the person receiving the winnings is unable to properly identify any of the winners, or the state of residence of any such other winner, the amount of the winnings applicable to such other person

shall be considered as having been won by the person (or persons) properly identified. Form IL-5754 must be signed, under penalties of perjury, by the person (or persons) receiving the winnings. A copy of Form IL-5754 must be retained by the payer; it need not be submitted to the Department.

E) Withholding from residents. If any of the persons listed on Form IL-5754 has Illinois as his state of residence and Federal income tax withholding is required, the payer must withhold Illinois income tax at the rate of 3% ~~2-1/2%~~ from each such person's winnings except to the extent that any such person claims an exemption on Form IL-W-4G submitted to the payer prior to the payment. The payer must prepare a Form IL-W-2G for every winner from whose gambling winnings Illinois income tax is withheld and the completed Form IL-W-2G may be presented to the winner either at the time of payment of the winnings or at any time up to and including January 31 of the year following the year of payment. Regarding the exemption certificates (Forms IL-W-4G), one copy should be retained by the winner and two copies should be submitted to the payer, the payer then forwarding one copy to the Department of Revenue on or before the 15th day of the following month.

F) Filing and remittance obligations of the payers. Payers withholding Illinois income tax on gambling winnings are required to file returns and information statements and make remittances in accordance with the schedule established by IITA Section 704 (see Section 5 of the Illinois Withholding Guide -- Form IL-700). Payment due dates will reflect the total amounts withheld under IITA Sections 701, 708, 709 and 710. For example, if, during a quarter-monthly period, an employer withholds $400 from employee's wages, $400 from gambling winnings paid to residents, and $400 from certain payments made pursuant to a personal services contract under IITA Section 708, he must remit $1,200 to the Illinois Department of Revenue by the third banking day following the close of that quarter-monthly period.

c) Exceptions.
   1) Withholding will not be required under this section on any payment to the extent such payment is not includable in the recipient's base income. Thus, if a payment consists partially of a return of capital, only that part of the payment which is not a return of capital and hence, is income, would be subject to withholding. Also annuity payments from qualified employee benefit plans, which are not includable in Illinois base income under IITA Section 203(a)(2)(E), would not be subject to

withholding under this section notwithstanding an agreement between the payor and the payee for the withholding of federal income tax on such payments. Similarly, if a payment consists of an amount which is exempt from taxation by this State either by reason of its Constitution or by reason of the Constitution, treaties or statutes of the United States (i.e., interest on obligations of the United States) such payment would not be subject to withholding under this section.

2) Withholding will not be required on any payment under this section, except "compensation paid in Illinois" as defined in Section ~~86--Ill.--Adm.--Code~~ 100.7010(a) of this Part to the extent that the payment is subjected to withholding by another state. A signed declaration by the payee to the effect that another state is withholding income tax on a payment shall relieve the payer of the requirement to withhold Illinois tax on such payment.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.7050 Computation of Amount Withheld (IITA Section 702)

a) Amount withheld. Every employer required to deduct and withhold a tax on compensation paid in Illinois to an individual shall deduct and withhold for each payroll period an amount equal to 3% (.03) ~~2 1/2% (.025)~~ of the amount by which such individual's compensation exceeds the proportionate part of his withholding exemption attributable to the payroll period for which such compensation is payable. "Payroll period" for Illinois withholding purposes shall have the same definition as in 26 USC ~~U.S.C.~~ 3401 and shall include "miscellaneous payroll period" as that term is defined and used in that section and the regulations thereunder.

b) Methods of computations.

1) General rules. Employers required to withhold Illinois income tax on compensation paid in this State shall compute the amount of tax to be withheld for each payroll period pursuant to the methods and rules provided for withholding on such compensation under the Internal Revenue Code.

2) Direct percentage computations.

A) An employer may elect a direct percentage computation to determine the amount of withholding utilizing the following allowances per claimed exemption (see 86 Ill. Adm. Code 100.7150) for the appropriate payroll period. A rate of 3% (.03) ~~2 1/2% (.025)~~ is to be used in the determination of the amount of tax to be withheld. For compensation paid in years prior to 1998, the exemption is:

Weekly	$ 19.23
Bi-Weekly	38.46
Semi-monthly	41.67
Monthly	83.33
Quarterly	250.00
Semi-annually	500.00
Annually	1,000.00
Daily or Miscellaneous	2.74

For years after 1997, the basic amount of the exemption is changed from $1,000. For those years, the amount of an exemption allocable to a period of less than a year should be taken from the applicable version of Booklet IL-700, Illinois Employer's Withholding Tax Guide and Withholding Tables, available from the Department. If the Booklet IL-700 is not available, these amounts can be computed by multiplying the above amounts by a fraction equal to the basic amount for the year divided by $1,000.

B) The steps in computing the amount to be withheld under the percentage method of withholding are as follows:

i) Step 1: Determine the amount of one withholding exemption for the particular payroll period from the preceding table;

ii) Step 2: Multiply the amount determined in Step 1 by the number of exemptions claimed by the employee;

iii) Step 3: Subtract the amount determined in Step 2 from the employee's compensation;

iv) Step 4: Multiply the difference determined in Step 3 by 3% (.03) ~~2 1/2% (.025)~~. The result is the amount of tax to be withheld for the particular payroll period.

C) If an employee has claimed no withholding exemptions, either by filing a withholding exemption certificate claiming zero exemptions or by not filing a withholding exemption certificate, the amount to be withheld is 3% (.03) ~~2 1/2% (.025)~~ of the compensation payable for each payroll period.

3) Tables. An employer may elect to use the withholding tables set out in the Booklet IL-700, Illinois Employer's Withholding Tax Guide and Withholding Tables, ~~Form--IL-700,~~ available from the Department.

4) Other methods.

A) An employer may use any other method for computing the amount of tax to be deducted and withheld for each payroll period which is permitted for withholding for federal income tax purposes.

B) If any such other method for the computation of the amount of tax to be deducted and withheld for federal income

tax purposes required prior approval of the Commissioner of Internal Revenue, then the Department shall be notified of such federal approval by the submission of a copy of the employer's request and the Commissioner's approval.

c) Supplemental wage payments. An employee's compensation may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period or without regard to a particular period. When such supplemental wages are paid, the amount of tax required to be withheld shall be determined in accordance with the same methods provided for withholding on such wages under the Internal Revenue Code and the regulations thereunder. However, an employer may elect to compute the amount of tax to be withheld using a flat rate of 3% (.03) ~~2-1/2%-(.025)~~.

d) Vacation pay. Amount of so-called "vacation allowances" shall be subject to with holding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the allowance shall be treated as supplemental wage payments.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.7070 Voluntary Withholding (IITA Section 701)

Any individual receiving periodic payments may enter into an agreement with the payor to provide for withholding of Illinois income tax on such payments. An agreement under this section between the payor and the individual shall be in writing and shall be governed by the provisions of ~~paragraph (b) of~~ Section ~~86 Ill. Adm. Code~~ 100.7060(b) of this Part. The amount of tax to be deducted and withheld from each payment shall be equal to an amount mutually agreed upon in the written agreement or 3% (.03) ~~2-1/2%~~ and shall be considered as a tax withheld from compensation for the purposes of Article 6 and Article 7 of the Illinois Income Tax Act. A payor who has entered into an agreement under this section shall be considered an employer required to deduct and withhold tax for the purposes of Article 7 and Section 1002 and shall accordingly be required to register as a withholding agent and file the reports and returns required of all employers withholding tax.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.7090 Reciprocal Agreement (IITA Section 701)

a) General rule. The Director may enter into an agreement with

the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of Illinois shall be exempt from withholding of such tax; in such case, any compensation paid in Illinois to residents of such state shall be exempt from withholding of Illinois income tax. Pursuant to such reciprocal agreements, the employer in Illinois should, upon request by an employee residing in such other state, withhold tax on his compensation for the state of his residence. (See IITA Section 302(b) which provides for agreements exempting compensation of nonresidents from Illinois income tax.)

b) Example. This Section ~~section~~ may be illustrated by the following example: A, a resident of State X ~~Gary, Indiana,~~ is employed by X Retail Clothing Store, an Illinois corporation, and works each day in Chicago at X's store as a sales clerk. A's wages are "compensation paid in Illinois" as defined in IITA Section 304(a)(2)(B). However, pursuant to a reciprocal agreement with ~~the~~ State X ~~of Indiana~~, A's compensation is not subject to withholding under the Illinois Income Tax Act. Accordingly, X Company is not required to withhold Illinois income tax on the compensation paid to A. However, X Company should, at A's request, withhold the State X ~~Indiana~~ income tax due on A's compensation pursuant to the State X ~~Indiana~~ withholding requirements on compensation paid to State X ~~Indiana~~ residents.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section 100.7100 Withholding Exemption (IITA Section 702)

a) General rules. An employee is entitled to a withholding exemption ~~in an amount~~ equal to the basic amount ~~$1,000~~ multiplied by the number of withholding exemptions to which he is entitled for federal income tax withholding purposes plus additional exemptions in the amount of $1,000 if the taxpayer or the taxpayer's spouse is age 65 or older or is blind. Since the Act does not provide for itemized deductions for individuals in the computation of net income, no additional withholding allowances based on such deductions (as provided under 26 USC ~~U.S.C.~~ 3402(m) are permitted). The basic amount is $1,000 for years prior to 1998; $1,300 for 1998; $1,650 for 1999; and $2,000 for subsequent years.

b) Married employees. A married employee may not claim a withholding exemption for any dependent (as defined in 26 USC ~~U.S.C.~~ 152) unless, if he filed a separate federal income tax return, he could claim that dependent on such separate return. He may claim any withholding exemption to which his spouse may be entitled (except for

dependents) for federal withholding purposes if the spouse has not claimed such exemption on an Illinois withholding exemption certificate. However, a married employee is not entitled to claim any withholding exemption in respect of a spouse unless they expect to file a joint Illinois income tax return.

c) Examples. Section ~~86 Ill. Adm. Code~~ 100.7100(a) and (b) of this Part may be illustrated by the following examples:

1) Example 1: A and B are married and intend to file separate federal returns. A and B are residents of Illinois. A, is employed and works for a company in State X. None of the compensation received from his employer is subject to Illinois withholding (see Section ~~86 Ill. Adm. Code~~ 100.7010 of this Part). B works in Illinois and her salary is subject to Illinois withholding. For federal withholding purposes, A claims no exemption and B claims two exemptions, one for herself and one for her spouse, who has not claimed a withholding exemption for himself on a federal withholding exemption certificate filed with his employer. Under IITA Section 502(c), A and B must file a return in Illinois on a separate basis. B may claim only one withholding exemption for Illinois withholding purposes (i.e., her own exemption) even though she is entitled to claim two exemptions for federal withholding purposes.

2) Example 2: Assume the same facts as Example 1, except that A and B have both attained the age of 65. Accordingly, B claims four withholding exemptions for federal purposes. However, for Illinois withholding purposes B may claim only her own two exemptions; one exemption equal to the basic amount for herself and one additional $1,000 exemption for having attained the age of 65.

3) Example 3: Assume the same facts as Example 1, except that A and not B claims the two exemptions on a federal withholding exemption certificate. B is entitled to claim one withholding exemption (her own) for Illinois withholding purposes. However, if A and B expect to file a joint federal return and accordingly a joint Illinois return, B may claim two withholding exemptions for Illinois withholding purposes.

4) Example 4: Assume the same facts as Example 1, except that A has two dependents who qualify as his dependents under 26 USC ~~U.S.C.~~ 152. Only A may claim these dependents as withholding exemptions for both federal and Illinois purposes.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.9010 Collection Authority (IITA Section 901)

~~a)~~ In general. The Department shall collect the taxes imposed by the Act

and shall pay all monies received thereunder into the ~~General Revenue Fund in the~~ State Treasury as provided by IITA Section 901.

~~b) Local governmental distributive fund. Under the Act, the Treasurer of this State is required to transfer from the General Revenue Fund to a special fund known as the Local Government Distributive Fund an amount equal to one twelfth of the net revenue realized from the Act during the preceding month. Net revenue realized for a particular month is the revenue deposited in the General Revenue Fund from the Act less the amount of state warrants paid out as refunds during the same month to taxpayers due to their overpayments of liability under the Act.~~

~~c) Personal property tax replacement fund. Money collected pursuant to Section 201(c) and (d) of the Act shall be paid into the "Personal Property Tax Replacement Fund", (see Ill. Rev. Stat. 1985, ch. 85, par. 616), a special fund in the State Treasury.~~

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section 100.9300 Deficiencies and Overpayments (IITA Section 904)

a) Examination of return
The Department shall examine a return as soon as practicable after it is filed to determine the correct amount of tax. If for reasons other than mathematical error (see Section ~~86 Ill. Adm. Code~~ 100.9200(a)(1) of this Part) the Department finds that the correct amount of tax exceeds that shown on the return, and the taxpayer disagrees, the Department then shall issue to the taxpayer, subject to applicable limitations in IITA Section 905 (see Section ~~86 Ill. Adm. Code~~ 100.9230 of this Part), a notice of deficiency which shall set forth the amount of tax and any penalties proposed to be assessed. (See IITA Section 904(c).) Note that, in the absence of a written protest of the notice so issued (see 86 Ill. Adm. Code 200.120(b)), the Department's final action thereunder is not an administrative decision subject to judicial review (except as to jurisdictional questions) under the provisions of the Administrative Review Act (see Section ~~86 Ill. Adm. Code~~ 100.9600 of this Part). If the Department finds that the tax paid exceeds the correct amount, it shall credit or refund the overpayment as provided by IITA Section 909. The Department's findings here under shall be deemed prima facie correct and shall constitute prima facie evidence of the correctness of the amount of tax and penalties due.

b) No return filed
If any taxpayer fails to file a return required by the Act, the Department under its authority for access to books and records and

to conduct examinations, investigations, and hearings provided in IITA Sections 913 through 916, using any reasonable method in accordance with its best judgment and information, shall determine the correct amount of tax due and without any time limitation (see IITA Section 905(c)) shall issue to the taxpayer a notice of deficiency setting forth the amount of tax and penalties proposed to be assessed. The term "reasonable method", for example, shall include any method or combination of methods to reconstruct the taxpayer's Illinois net income established or acceptable under federal 26 USC ~~U.S.C.~~ ~~Section~~ 446, e.g., methods based in whole or part on cash register receipts, specific items of income or expense, bank deposits, expenditures (including use of the rule in Cohan v. Commissioner, 39 F. 2d 540 (2d Cir.), to determine the amounts of allowable expenses), net worth, or other acceptable or accepted method. (In this connection see also Section ~~86--Ill.--Adm.~~ ~~Code~~ 100.9200(a)(4) of this Part.) The Department's determination shall be deemed prima facie correct and shall constitute prima facie evidence of the correctness of the amount of tax due.

c) Notice of deficiency
A notice of deficiency issued under the Act shall set forth the reasons therefor and a basis sufficient to inform the taxpayer of the adjustments giving rise to the proposed assessment. In case a joint return was filed, the Department may issue a single joint notice of deficiency to the taxpayers unless it has been notified by either of the spouses that separate residences have been established in which case it shall issue the joint notice of deficiency to each spouse.

d) Assessment when no protest
The amount of tax and penalties specified in a notice of deficiency shall be deemed assessed upon the expiration of 60 ~~45~~ days (150 days if the taxpayer is outside the United States) from the date of issuance to the taxpayer except only for such amounts as to which the taxpayer shall have filed a protest as provided in IITA Section 908. (See 86 Ill. Adm. Code 200.120(b).)

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)

a) In general~~.~~
1) This Section ~~section~~ relates to the exercise of the election provided in IITA Section 603 with respect to overpayments and liabilities that arise as the result of:
A) the filing of an original return;
B) an assessment due to a mathematical error;

C) the filing of an amended return showing an increase in tax liability;
D) the filing of an amended return showing a decrease in tax liability which is approved by the Department;
E) the submission by a taxpayer of a signed Form IL-870 waiver of restrictions on assessment and collection under Section 907 of the Act; and
F) the execution of a Form IL-870-AD pursuant to Section 100.9000(c)(5) of this Part ~~part~~.

IITA Section 603 was repealed by Public Act 88-195, which also amended IITA Section 502(e) to require combined returns for taxable years ending on or after December 31, 1993. No election under that Section may be made with respect to taxable years ending on or after December 31, 1993.

2) If the overpayment arises from subsection (a)(1) ~~items~~ (A) or (D) above, it may only be credited against the liability for the same taxable year of one or more other taxpayers that are members of the same unitary group for that taxable year. If the overpayment arises from subsection (a)(1)(E) or (F) above, it may be credited against the liability of one or more other members of the same unitary group for any taxable year within the audit period of the electing company. The audit period of the electing company is any taxable year for which the original return or an amended return of the electing company has been examined under IITA Section 904(a) or 909(e) and the electing company has been notified that the correct tax is less than, equal to, or more than the amount of tax already assessed.

b) Elements of the election. The election may only be made by a taxpayer that has an overpayment and has filed its tax return. The election is only available for taxable years ending before December 31, 1985. The election, including the alternative election, is binding and cannot later be amended, revised, or cancelled by the taxpayer. The election must be specific on the following matters:
1) the identities of other members of the unitary business group to which the overpayment is assigned,
2) the amount of the overpayment assigned to each such member, and
3) the date the overpayment was made.

c) Meaning of overpayment. A company's overpayment for a taxable year is the amount by which its payment and credits for that year exceed its assessed liability for the same year under IITA Section 903, except for any penalties imposed under IITA Section 804 as a result of making this election.
1) In ascertaining whether a taxpayer has an overpayment for a particular taxable year and in computing the amount of such overpayment, an amended return constituting a claim for

refund under IITA Section 909(d) shall not be treated as reducing the taxpayer's assessed liability for the taxable year unless the taxpayer has received a notice from the Department that the claim has been approved and that a refund will be issued.

2) If an overpayment has been refunded or credited forward to the taxpayer's next taxable year prior to an election being made, that overpayment is no longer available to be used as an offset against any other member's liability, and the refund or credit forward will not be reversed or cancelled by the Department at the request of the taxpayer. An overpayment elected to be credited forward to the taxpayer's next taxable year will be considered made as of the first installment due date of the credit carryforward year. Consequently, a credit carryforward will be binding once the due date for the first estimated tax installment of the carryforward year has passed without an election to offset having been made, and such overpayment will not be available for offset after that date. For purposes of this section the date on which a refund will be considered to be made will be the "process date," meaning the date the Department processes an account by computer for the issuance of a warrant, which is permanently recorded date maintained by the Department.

d) Procedure~~:~~

1) Manner and time for making an election. The election must be made on forms prescribed by the Department, and it must be filed before the Department has issued a refund for the overpayment or before the overpayment has been credited forward to the taxpayer's next taxable year. All the members of a unitary group who wish to file an election must do so at the same time and on the same form. The election is only available to unitary business group members that have overpayments. Nothing in this Section ~~section~~ permits a member of the unitary business group having a balance due on its liability to claim unilaterally the overpayment made by another member for the same taxable year. Both the overpaid and underpaid members are bound by the consequences of the election. The election should be filed with the original or amended returns which are related to the election if those returns have not been previously filed.

2) The Department's response to the election. As soon as practicable (but not later than 3 months) after the election is filed, the Department shall inform the electing taxpayer and each taxpayer that is to receive an assignment of payments pursuant to the election that the election has been approved or disapproved. An election will be disapproved if it violates any of the substantive or procedural requirements set out in this Section ~~section~~. In addition, an election may be disapproved if the Department has chosen to exercise its

right under IITA Section 909(a) or Section 39e of the ~~The~~ Civil Administrative Code of Illinois to use the overpayment to defray another Illinois tax liability of the electing taxpayer, thus causing the overpayment to be less than the electing taxpayer had anticipated in filing its election.

3) Alternative elections~~:~~

A) If the election is disapproved because it is premised on a mistake as to the size of the overpayment, the notice of disapproval must provide the electing company with an explanation of the correct calculation of the overpayment, if any. If the election is disapproved because it violates one of the other requirements set out in this section, the notice of disapproval must state the nature of the violation. In either event, the electing company shall have 45 days from the date that the notice of disapproval is issued to file an alternative election, provided that an election otherwise meeting the requirements of this section is possible. A notice of disapproval is considered issued on its postmark date. The alternative election may include overpaid members of the unitary group which were not included in the original election. The alternative election shall be made on the form prescribed by the Department and should take into account whatever mistakes or violations the Department has cited in its notice of disapproval. If, by reason of the matters dealt with in the Department's notice of disapproval, the electing company is shown not to have an overpayment for the taxable year, then an alternative election may not be filed. In situations in which an alternative election may be filed, if one is not filed within 45 days of the date that the notice of disapproval is issued, then all companies involved will be treated as though no election had ever been attempted.

B) The Department will approve an election, if it is premised on a mistake in the size of the electing company's overpayment and if precisely the same election could be made on the basis of the reduced overpayment.

i) EXAMPLE: Corporation A, Corporation B, and Corporation C are all members of the same unitary business group for their taxable years ended November 30, 1984. Each filed its Illinois income tax return on February 15, 1985 on a combined apportionment basis with the other two. Corporation C showed a balance of tax due on its return of $20,000; Corporation A showed an overpayment of $20,000; and Corporation B showed an overpayment of $40,000 on its return. Corporation

A filed an election under this section, assigning its entire overpayment to Corporation C and specifying that $5,000 should be considered as having been paid by Corporation C on each of the four dates that Corporation A had made estimated tax installments. Corporation B indicated on its return that its entire $40,000 overpayment should be refunded. In processing Corporation A's return, the Department identified a mathematical error which caused an additional $16,000 to be assessed on Corporation A's return with a consequent reduction of Corporation A's overpayment by that same amount. In addition to notifying Corporation A of the mathematical error assessment, the Department notified both Corporation A and Corporation C that the election had been disapproved. At the time the disapproval notices were issued, Corporation B still had not received its $40,000 refund.

ii) QUESTION: The question is whether the tax compliance personnel of the A-B-C unitary business group have any alternative to simply having Corporation A file an alternative election assigning $4,000 to Corporation C and having Corporation C pay whatever Section 804 penalty and interest may accrue as a result of its $16,00 balance due.

iii) ANALYSIS AND CONCLUSION: Corporations A and B may make an alternative election to assign $4,000 and $16,000, respectively, to Corporation C or Corporation B may make an alternative election to assign $20,000 of its unrefunded overpayment to Corporation C.

e) Consequences of the election as between the electing company and the company receiving the assignment of overpayments.

1) Once an election is approved, the electing company loses all entitlement to the overpayments assigned and all benefits which would otherwise have accrued to it under the Act as the actual payor of the overpayments assigned. Conversely, once an election is approved, companies receiving assignments of overpayments shall be entitled to all of the benefits that would have accrued to them under the Act had they themselves made the payments assigned to them at the times specified in the election.

A) EXAMPLE: Corporation A and Corporation B are part of the same unitary business group for calendar 1984. Corporation A's total Illinois income tax liability for 1984 is $20,000 and its total payments, $30,000.

Corporation B's total Illinois income tax liability for 1984 is $12,000 and its total payments, $2,000. Corporation A makes an election assigning its entire $10,000 overpayment to Corporation B. The election is approved by the Department, and the companies are so notified. At a later date, Corporation B discovers that an item of its own nonbusiness (nonapportionable) income, which it had allocated to Illinois on its original return really should not have been allocated to Illinois under Section 303 of the Act. Corporation B files an amended return, relating to this item, claiming that its liability for 1984 should have been $6,000 less than shown on its original return and that it is consequently entitled to a refund of $6,000. The Department examines the claim under Section 909(e), determines that it is meritorious, and issues a notice of refund. Corporation A's legal officer, having heard of the claim filed by Corporation B and wishing to collect whatever he can on a large debt owed by Corporation B to Corporation A, petitions the Department to issue the $6,000 refund to Corporation A.

B) ANALYSIS AND CONCLUSION: The Department will not grant Corporation A's petition, and it will refund the $6,000 to Corporation B. By making the election, Corporation A lost all entitlement to the assigned amount.

2) A company may not elect to assign an amount in excess of its overpayment. However, as a result of making an election, a company may subject itself to penalties for underpayment of estimated tax, and it must agree to be liable for any such penalties as a condition of making the election.

A) EXAMPLE: Corporation A and Corporation B are members of the same unitary business group for 1984; neither has ever been an Illinois income taxpayer before. On completing their Illinois income tax returns for 1984, Corporation A and Corporation B arrive at the following conclusions:

i) Corporation A:

Total Illinois Income Tax Liability		$2,000,000
1st est. tax installment - April 16, 1984	$400,000	
2nd est. tax installment - June 15, 1984	400,000	
3rd est. tax installment - September 17, 1984	800,000	

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4th est. tax installment - December 17, 1984	800,000	
		$2,400,000
		$ 400,000

ii) Corporation B:

Total Illinois Income Tax Liability	$1,000,000
1st est. tax installment - September 17, 1984	$200,000
2nd est. tax installment - December 17, 1984	600,000
	$ 800,000
	$ 200,000

Balance of Tax Due. The companies recognize that Corporation B has underpayments of estimated tax within the meaning of Section 804(b) of the Act of $200,000 as of April 16 and in the accumulated amount of $400,000 as of June 15 and September 17 and that these underpayments will generate a penalty under Section 804(a) of $56,547.94. The companies further recognize that, due to the seasonal nature of Corporation B's business, an estimated tax payment of $100,000 on or before April 16 would have qualified Corporation B for the exception of Section 804(d)(3) with respect to the underpayments mentioned above, with the result that Corporation B would have incurred no estimated tax penalty whatsoever for 1984. In view of these circumstances, Corporation A filed a timely election to assign $200,000 of its overpayment to Corporation B, specifying that the $100,000 should be considered as having been paid by Corporation B on April 16, 1984, and $100,000 as of September 17, 1984. Realizing that it has caused its first installment to be reduced below what is necessary to meet its own estimated tax obligations, Corporation A expects to incur an estimated tax penalty under Section 804(a) of the Act in the amount of $10,191.78, that being the penalty generated by a $100,000 underpayment for the 155 day period from April 15, 1984 to September 17, 1984. The election will have the effect of saving the A-B unitary business group $46,356.16 in estimated tax penalty.

B) ANALYSIS AND CONCLUSION: This election will be approved by the Department, and as a result, Corporation A will be liable for the penalty for underpayment of estimated tax in the amount of $10,191.78.

f) Additional provisions:

1) The regulations are effective for all elections made under Section 603 of the Illinois Income Tax Act as amended by PA 93-1289. This provision provides coverage for elections made and processed by the Department prior to the regulations being adopted.
2) Overpayments can be divided up and used to offset more than one underpaid account.
3) Partnerships and Subchapter S corporations are qualified to participate in elections made under this section.
4) Overpayments can only be assigned to accounts with liabilities. "Liability" includes penalties such as underpayment of estimated tax, late filing penalty, and late payment penalty. Movement of payments can cause penalties of underpaid accounts to be reduced or cancelled altogether.
5) The purpose of the reference to IITA Section 911 in IITA Section 603 is to preclude the creation of a new claim period outside of Section 911 by reason of new Section 603.
6) A company will not be considered a member of the same unitary business group as another company for purposes of this election unless the assessment from which the overpayment is derived is supported by a return, amended return, waiver of restrictions on assessment and collection or executed Form IL-870-AD or IL-870 premised on the electing company being a member of the same unitary business group as such other company.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section 100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)

~~a) If, during the course of any audit, investigation, or hearing, the Department determines that a taxpayer lacks necessary documentary evidence, the Department is authorized to notify the taxpayer, in writing, to produce the evidence. The taxpayer shall have 60 days, subject to the right of the Department to extend this period either on request for good cause shown or on its own motion, from the date the notice is personally delivered or sent to the taxpayer by certified or registered mail in which to obtain and produce the evidence for the Department's inspection. Failure to provide the requested evidence~~

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~~*within the 60-day period precludes the taxpayer from providing the evidence at a later date during the audit, investigation or hearing.* (IITA Section 913)~~

~~b) The provision in IITA Section 913 allowing the Department to issue 60-day letters does not, in itself, provide the Department with authority to compel a taxpayer to produce any books, records or other documentary evidence which the taxpayer does not choose to produce. However, a taxpayer who fails to produce any evidence properly requested in a 60-day letter will thereafter be precluded from presenting such evidence later during the audit or at any subsequent proceeding before the Department, including informal conferences, refund claims, and informal reviews or administrative hearings of protests of notices of deficiency or notices of denial of refund claims.~~

~~c) General requirements for issuing 60-day letters. A 60-day letter shall be issued to a taxpayer during the course of an audit only if the following requirements are met:~~

~~1) A 60-day letter shall be issued to request only documentary evidence which the Department has previously requested from the taxpayer during the audit in a formal written notice, signed by the audit supervisor, which included:~~

~~A) A description of the documentation requested, such as, correspondence, internal studies or memoranda, contracts, or minutes of meetings of the board of directors or committees; and~~

~~B) a statement of the issue or issues to which the requested evidence may be relevant; and~~

~~C) a reasonable date for compliance with the request.~~

~~2) A 60-day letter shall be issued only after:~~

~~A) the taxpayer has notified the Department (by any means) that the taxpayer will not or cannot comply with the request in subsection (c)(1), above, with respect to one or more documents requested; or~~

~~B) the date for compliance stated in the request has passed.~~

~~3) To each 60-day letter, the Department shall attach a copy of the previous request or requests for documentary evidence in subsection (c)(1), above.~~

~~4) Each 60-day letter shall include:~~

~~A) a listing of the books, records or other documentary evidence requested in the 60-day letter; and~~

~~B) with respect to each such listing, a reference to the attached copy of a request in subsection (c)(1), above, in which the evidence was previously requested from the taxpayer.~~

~~5) The 60-day letter shall be signed by the audit supervisor and by the Director of the Department of Revenue or his or her designee. Before the auditor may submit a proposed 60-day letter to the audit supervisor for signature, the auditor shall present the taxpayer with a copy of the proposed 60-day letter (including all attachments). Within 30 days after receiving the copy from the auditor, the taxpayer may submit a written objection to the issuance of the 60-day letter to the auditor, stating any grounds for objection the taxpayer believes appropriate. After receiving an objection from the taxpayer or after the 30-day period for submitting an objection has expired, the auditor may submit the 60-day letter together with any objection to the audit supervisor. If, after considering the taxpayer's objections, the audit supervisor believes the 60-day letter should be issued, he or she shall sign the 60-day letter and forward the 60-day letter together with the taxpayer's objections to the Director (or his or her designee) for review.~~

~~6) The 60-day letter shall be sent by certified mail, return receipt requested, to an individual taxpayer or, for other taxpayers, to a person authorized to sign tax returns on behalf of the taxpayer pursuant to IITA Section 503, or shall be hand delivered to the taxpayer by the auditor if the taxpayer acknowledges receipt of the letter in writing. In any case in which the taxpayer has filed a Form IL-2848 Power of Attorney appointing a representative for the tax period involved, a copy of the 60-day letter shall be sent to each representative as directed in the Form IL-2848.~~

~~d) Production of evidence. Unless a 60-day letter expressly provides otherwise, a taxpayer may produce the documentary evidence requested in the 60-day letter by any one or more of the following means:~~

~~1) Providing the auditor with a legible photostatic copy of a document.~~

~~2) Providing the auditor with a microfilm, microfiche or other machine sensible (i.e., material that is read with the aid of a machine) copy of a document, provided that such copy shall be in a form or format which is either compatible with a machine belonging to the Department or otherwise readily usable by the Department.~~

~~3) Allowing the auditor access to the original or a copy of any requested document, provided that:~~

~~A) such access shall be provided to the auditor at the place where the auditor has been conducting the audit of the taxpayer or at some other location to which the auditor shall agree, provided that such agreement shall not unreasonably be withheld;~~

~~B) the taxpayer must provide the auditor with any equipment necessary to review such documentary evidence and to make copies which are readily usable by the Department; and~~

~~C) the taxpayer must allow the auditor continuing access to such documentation until the auditor has had sufficient time, as reasonably determined by the auditor, to review and copy every document so provided.~~

e) Time-for-compliance-with-60-day-letter

1) The--taxpayer--shall-have-60-days-from-the-date-the-60-day-letter is-received,-computed-in-accordance-with-the-provisions-of-5-ILCS 70/1.11,-to-produce-the-documentary--evidence--requested,--unless the-period-for-compliance-is-extended-by-the-Department.

2) At--the-sole-discretion-of-the-Department,-the-Department-may,-by written-notice-to-the-taxpayer-signed--by--the--auditor--and--the audit--supervisor,--extend--the--period-for-compliance-on-its-own motion.

3) The-Department-may-extend-the-period-for-compliance-upon--request of-the-taxpayer-complying-with-the-following-requirements:

A) The--request--for-extension-shall-be-in-writing-and-shall-be submitted-to-the-auditor-prior--to--the--expiration--of--the period-for-compliance-as-stated-in-the-60-day-letter;

B) the--request--for--extension--shall-expressly-indicate-which books,-records-or-other-documentary--evidence--requested--in the--60-day--letter-require-additional-time-to-produce.--The compliance-period-shall--not--be--extended--for--documentary evidence--which--the--taxpayer-does-not-expressly-include-in the-request-for-extension;

C) the-request-for-extension-shall-propose-a-specific--date--to which-the-compliance-period-shall-be-extended;-and

D) The-request-for-extension-shall-state-specific-reasons-which the---taxpayer---believes--may--constitute--good--cause--for extending-the-period-for-compliance.--Examples-of-facts-that may-constitute-good-cause-for-extension-include,-but-are-not limited-to:

i) the-large-volume-of-documents-responsive-to-the-60-day letter-prevents-timely-compliance-by-the-taxpayer;

ii) the-documents-responsive--to--the--60-day--letter--are stored--in--a--location--that--makes-timely-production excessively-difficult;

iii) the-documents-responsive--to--the--60-day--letter--are maintained---in--a--machine-sensible--format--that--is incompatible---with---machines---belonging---to----the Department,--and--timely--conversion--of-the-documents into-a--format--useful--to--the--Department--would--be excessively-difficult;-or

iv) unforeseen--demands-on-the-taxpayer's-document-storage and-retrieval-system-resources-make-timely--compliance excessively-difficult.

4) In--determining--whether--to-grant-a-request-to-extend-the-period for-compliance,--the--Department--shall--take--into--account--the reasons--stated--in--the--request--and--any--other-facts-it-deems relevant,-including:

A) When-previous-extensions-have-been-granted,--any--statements made---by--the--taxpayer--in--connection--with--its--earlier requests.--In-particular,-the-Department--may--consider--the

taxpayer's---prior--estimates--of--the--time--necessary--for compliance-and-whether-the-taxpayer-has-adequately-explained the-reasons-its-earlier-estimates-were-in-error.

B) The-time-remaining-before-the--statute--of--limitations--for issuing--a-notice-of-deficiency-will-expire.--The-Department may-require-the-taxpayer-to--execute--an--extension--of--the statute--of--limitations--as--a-condition-to-the-grant-of-an extension-of-the-compliance-period.

C) The-extent-to-which-the-taxpayer-has--already--produced--the requested--documentary--evidence,--including-any-documentary evidence--for--which--the--taxpayer--is--not--requesting--an extension.

5) The-auditor-and-the-audit-supervisor-shall-make-the-initial-grant or-denial-of-a-request-to-extend-the-period-for-compliance.

A) If-the-auditor-and-audit-supervisor-grant-the-request,--they shall-so-inform-the-taxpayer-in-writing.

B) If-the-auditor-and-audit-supervisor-deny-the-request-because it-was-not-timely-made,-they-shall-so-inform-the-taxpayer-in writing.

C) Any--denial--of--a--timely--request--for--extension-shall-be reviewed-by-the-Director-or-his-or--her--designee--prior--to issuance.--If-the-Director-or-his-or-her-designee-determines that--denial--of-the-request-is-appropriate,-the-auditor-and audit-supervisor-shall-notify-the-taxpayer-in-writing-of-the denial-and-the-reasons-for-the-denial.

6) In-the-case-of-any-timely-request-for-extension,-the--running--of the--compliance--period-shall-be-tolled-from-the-date-the-request for-extension-is-delivered-to-the--auditor--until--the--date--the written-notice-of-approval-or-denial-of-the-request-for-extension is-issued.

f) Failure-to-comply-with-60-day-letter.--If-a-60-day-letter-is-issued-in compliance-with-the-requirements-of-this-Section,-no-books,-records-or other--documentary-evidence-which-were-within-the-scope-of-the-request in-the-60-day--letter--and--which--were--not--produced--prior--to--the expiration--of--the--period--for--compliance--with--the--60-day-letter (including--extensions)--shall--be--considered--for--any--purpose---in determining--the--taxpayer's--Illinois--Income--Tax--liability-for-the taxable-years-covered-by-the-60-day-letter.

1) Disputes-regarding-the-proper-issuance-and-scope-of--the--request in--a--60-day--letter.---If,--during--any--administrative-hearing conducted-pursuant-to-86-Ill.-Adm.-Code-200,-an-objection-is-made to-the-admission-of-documentary--evidence--based--on--failure--to comply--with-a-60-day-letter,-such-documentary-evidence-shall-not be--considered--by--the---Administrative---Law---Judge---if---the Administrative-Law-Judge-finds-that:

A) the--60-day-letter-complied-with-all-applicable-requirements of-subsection-(c),-above;

B) the-documentary-evidence-was-not-produced-by-the-taxpayer-in

~~timely compliance with the 60-day letter; and~~

~~C) the documentary evidence was within the scope of the request in the 60-day letter.~~

~~2) On his or her own motion, the Administrative Law Judge may exclude from consideration any documentary evidence which was not timely produced in compliance with a 60-day letter upon making the findings in this subsection (f). Documentary evidence excluded from consideration by the Administrative Law Judge shall be included in the record only for purposes of administrative review of the decision to preclude the taxpayer from presenting such evidence, provided an offer of proof has been made.~~

~~3) In no event will documentary evidence which a taxpayer has failed to produce in timely response to a 60-day letter be considered either by the auditor or by the Informal Conference Unit established pursuant to 20 ILCS 2505/39b20.1 in connection with the audit in which the 60-day letter was issued.~~

~~4) Documentary evidence which the taxpayer would otherwise be precluded from presenting under these provisions may be considered during an informal review conference conducted under 86 Ill. Adm. Code 200.135 or at an administrative hearing conducted pursuant to 86 Ill. Adm. Code 200 only at the sole discretion of the Department.~~

~~g) Issuance of 60-day letters to taxpayers in hearings. IITA Section 913 expressly permits the Department to issue 60-day letters in the course of a hearing. However, the Department will not issue 60-day letters in the course of proceedings in any informal conference or administrative hearing being conducted pursuant to regulations under 86 Ill. Adm. Code 200 until specific procedures for issuing such letters are adopted by amendment to this Section.~~

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART AA: JUDICIAL REVIEW

Section 100.9600 Administrative Review Law (IITA Section 1201)

a) Circuit Court review; application and scope; remand procedure. IITA Section 1201 states that the provisions of the Administrative Review Law as contained in Article III 3 of the Code of Civil Procedure [735 ILCS 5/Art. III] ~~(Ill. Rev. Stat. 1981, ch. 110, par. 1-101 et seq.)~~ and rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of the Department's final actions under IITA Sections 908(d) and 910(d) and that such actions shall constitute administrative decisions as defined in Section 3-101 of the Administrative Review Law. (See Sections ~~86 Ill. Adm. Code~~ 100.9000(c)(2) and 100.9100(b)(1) and (3) of this Part.) The Administrative Review Act (which should be consulted for completeness) also includes the following provisions:

~~"Section 3-110.~~ Scope of Review. Every action to review any final administrative decision shall be heard and determined by the court with all convenient speed. The hearing and determination shall extend to all questions of law and of fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court. The findings and conclusions of the administrative agency on questions of fact shall be held to be prima facie true and correct." [735 ILCS 5/3-110]

~~"Section 3-111.~~ Powers of Trial Court ~~(a)~~ The Circuit Court has power: ~~(7)~~ Where a hearing has been held by the agency, to remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it shall appear that such action is just. However, no remandment shall be made on the ground of newly discovered evidence unless it appears to the satisfaction of the court that such evidence has in fact been discovered subsequent to the termination of the proceedings before the administrative agency and that it could not by the exercise of reasonable diligence have been obtained at such proceedings; and that such evidence is material to the issues and is not cumulative." [735 ILCS 5/3-111]

b) Where the case is remanded to the Department under the provisions quoted immediately above for the taking of additional evidence, the Department in compliance therewith and to the extent appropriate shall reopen and resume the examination of the return or claim under IITA Section 904(a) (see Sections ~~86 Ill. Adm. Code~~ 100.9300(a), 100.9400(a), and 100.9520(a) of this Part). The informal procedure shall be made available at the taxpayer's or claimant's option as set forth at Section ~~86 Ill. Adm. Code~~ 100.9000 of this Part, and if the dispute continues, the investigation and hearing provided for in IITA Section 914 (see Section ~~86 Ill. Adm. Code~~ 100.9520 of this Part) shall be reopened and resumed. Any settlement or other disposition stipulated by the agreement of the parties of any of the adjustments or issues as a result of the remand prior to or after the resumption of the hearing shall be subject to the concurrence of the Attorney General and approval of the court; however, such approval shall not extend to or be considered as a decision on the merits of the issues by the court. After the handing down of the circuit court decision the Department as soon as practicable may publish its acquiescence or nonacquiesence to any part of the court's findings or conclusions decided adversely to the State and well within the time for taking an appeal shall transmit to the Attorney General its recommendations for or against taking an appeal. In its litigation positions and action on decision recommendations, at whatever

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judicial review level, the Department shall endeavor to promote and attain legal soundness tempered with practicability and fairness and coordinated uniformity of application in the interpretations taking into account overall the views and the interest of taxpayers or claimants and the state.

c) Appellate review. The Administrative Review Law also contains the following provisions:
~~"Section--3-112.---Appeals.~~ Any final decision, order, or judgment of the Circuit Court ~~circuit court~~, entered in an action to review a decision of an administrative agency may, is reviewable by appeal as in other civil cases." [735 ILCS 5/3-112]

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART BB: DEFINITIONS

Section 100.9700 Unitary Business Group Defined. (IITA Section 1501)

a) Scope
This regulation is designed to clarify the meaning of IITA Section 1501(a)(27), defining "unitary business group", which definition became effective for tax years ending on or after December 31, 1982.

b) Persons related through common ownership
A unitary business group will be composed exclusively of business corporations. However, see the special rule at Section 3380(c) of this Part ~~100.3700(d)~~ regarding inclusion of shares of partnership unitary business income and factors.

c) The 80-20 U.S. business activity test for prospective members
The factors to be used in determining whether 80% or more of a person's business activity is conducted outside the United States shall be gross figures without eliminations premised on the person's membership in any unitary business group. However, the factors should relate to the common accounting period, as defined in Section 100.3310, of the unitary business group of which the person being tested could become a member were the person's business activity found to be less than 80% outside the United States. The factors to be used are as follows:
1) persons required to apportion business income under IITA Section 304(a) will use property and payroll,
2) persons required to apportion business income under IITA Sections 304(b), 304(c) or 304(d) will use the respective factors prescribed in those provisions.
A) In accordance with IITA Section 102 and 26 U.S.C. 7701(b)(9), the phrase "United States" as used in IITA Section 1501(a)(27) shall include only the fifty states and the District of Columbia.

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B) Mechanically, the computation of the 80-20 U.S. business activity test requires the formation of one or two fractions, as the case may be, and the subsequent averaging of those fractions to arrive at an overall U.S. business activity in relation to world-wide business activity. The numerators of the fraction represents U.S. property, U.S. payroll, U.S. revenue miles, insurance premiums on property or risk in the U.S. or financial organization business income from sources within the U.S.; the respective denominators are world-wide figures.
C) Cross-reference
For the proper application of the 80-20 United States business activity test to prospective part-year members, see Section ~~86-111.-Adm.-Code~~ 100.3310 of this Part.

d) Entities using different apportionment formulas under IITA Section 304
1) All members of a unitary business group must be eligible under IITA Section 304 to use the same apportionment formula. As a consequence, a corporation required to use the three factor apportionment formula of Section 304(a) cannot be a member of the same unitary group as a corporation required to use the one factor apportionment formula of IITA Section 304(c), nor may a corporation required to use the one factor apportionment formula of IITA Section 304(c) be a member of the same unitary business group as a corporation required to use the one factor apportionment formula of IITA Section 304(b). The proper method for determining unitary business group memberships under IITA Section 1501(a)(27) is first to identify all entities that are related through common ownership and engaged in either horizontally or vertically integrated enterprises with the requisite exercise of strong centralized management and second, to create from the population of entities thus identified one unitary business group composed of entities required to apportion under IITA Section 304(a), one unitary business group composed of entities required to apportion under IITA Section 304(b), one unitary business group composed of entities required to apportion under IITA Section 304(c) and one unitary business group composed of entities required to apportion under IITA Section 304(d).
2) EXAMPLE:
A) FACTS: Corporation A owns all of the outstanding common stock of Corporations B and C. Corporations B and C each own 30% of the outstanding common stock of Corporation D. Corporation D owns 60% of the outstanding common stock of Corporation E. Corporation A is a mining company operating exclusively in Illinois. Corporation D is a manufacturing company with factories in Illinois and

Indiana. Corporation C is an insurance company earning premiums for insuring property and risks located in Illinois and Indiana. Corporation B is an air freight company and Corporation E is a trucking company, both operating nationwide. In their relation ships to one another, the five companies: ~~(1)~~ are "steps in a vertically structured enterprise or process" and ~~(2)~~ are "functionally integrated through the exercise of strong centralized management."

B) ANALYSIS AND CONCLUSION: As a result of these facts, Corporations A and D, which would ordinarily be required to apportion business income by means of the three factor apportionment formula of IITA Section 304(a), will constitute one unitary business group; Corporations B and E, which would ordinarily be required to apportion business income by means of the one factor transportation formula IITA Section 304(d) will constitute a second unitary business group; and Corporation C will compute its liability on a non-combined apportionment basis under IITA Section 304(b).

e) Common ownership

Corporations: Direct or indirect control or ownership of more than 50% of outstanding voting stock. Insofar as corporations are concerned, one has direct ownership of the outstanding voting stock of another to the extent that it owns such stock and indirect control to the extent that it owns the voting stock of a third corporation which itself owns such stock. Any combination of direct and indirect control or ownership aggregating more than 50% will suffice to qualify the corporation whose stock is owned for membership in the unitary business group if other tests unrelated to ownership are met.

1) Corporation A owns 60% of the outstanding voting stock of Corporation B which in turn owns 60% of the outstanding voting stock of Corporation C. There is common ownership of Corporations A, B and C by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B and indirect control of more than 50% of the outstanding voting stock of Corporation C.

2) Corporation A owns 60% of the outstanding voting stock of Corporation B and 60% of the outstanding voting stock of Corporation C. Corporations B and C in turn each own 30% of the outstanding voting stock of Corporation D. Corporations A, B, C and D are all under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporations B and C and by reason of Corporation A's indirect control of more than 50% of the outstanding voting stock of Corporation D.

3) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporations B and C each in turn own 30% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B, but neither Corporations C or D are under common ownership with Corporations A and B because neither Corporation A nor Corporation B has direct or indirect control or ownership of more than 50% of the outstanding voting stock of Corporations C or D.

4) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporation B owns 30% of the outstanding voting stock of Corporation D and Corporation C owns 60% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of the fact that Corporation A owns more than 50% of the outstanding voting stock of Corporation B, and Corporations C and D are under separate common ownership by reason of the fact that Corporation C owns more than 50% of the outstanding voting stock of Corporations D.

f) Attribution of stock ownership among certain individuals

For the purpose of IITA Section 1501(a)(27), an individual shall be considered to have indirect control over any stock that he is considered as owning under 26 USC ~~U.S.C.~~ 318(a)(1). EXAMPLE: Strictly as an investment, Mr. X and his wife, Mrs. X, each individually own 30% of the outstanding voting stock of Corporation A and 30% of the outstanding voting stock of Corporation B. Corporations A and B are under common ownership within the meaning of Section 1501(a)(27), and assuming that they meet the other requirements of IITA Section 1501(a)(27), they will be members of the same unitary business group. The common ownership stems from the fact that, under Section 318(a)(1) of the Internal Revenue Code, the stock holdings of Mr. X are imputed to his wife and vice versa. Note that it is not necessary in order for Corporations A and B to be members of a unitary business group that the "person" in whom the common ownership is embodied also be a member of the unitary business group.

g) Strong centralized management

Under IITA Section 1501(a)(27), no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management. It is this exercise of strong centralized management that is the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the same unitary business group. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance,

product line, personnel, marketing and capital investment is not left to each member. Thus, some groups of persons may properly be considered as constituting a unitary business group under IITA Section 1501(a)(27) when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons functions which truly independent persons would perform for themselves. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management exists. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must be present in order for persons to be a unitary business group under IITA Section 1501(a)(27). Finally, a finding of strong centralized management can be supported even though the authority resides in a person that is not a member of the group, provided that the authority is actually exercised by such person.

h) General line of business and vertically structured enterprises

1) Section 1501(a)(27) of the Act establishes that persons meeting all of the other tests for inclusion in a unitary business group, including common ownership, strong centralized management and comparability of apportionment method, will ordinarily be in one of the following relationships to one another:
   A) in the same general line of business, or
   B) steps in a vertically structured enterprise or process.

2) IITA Section 1501(a)(27) recites that two persons will ordinarily be considered to be in the same general line of business if they are both involved in one of the following activities:
   A) manufacturing
   B) wholesaling
   C) retailing
   D) insurance
   E) transportation, or
   F) finance

3) IITA Section 1501(a)(27) does not contemplate that the above list be exclusive. For example, two persons that are both involved in rendering services to the public would ordinarily be considered to be in the same general line of business. In this regard, a retailer that renders

services that are incidental to its retail business will not be in the same general line of business as a person that is primarily a service dispenser.

4) It is not a requirement of IITA Section 1501(a)(27) that the activities of the two persons in whichever category is applicable relate to the same product or product line in order for the two persons to be in the same general line of business.

5) Two persons are steps in a vertically structured enterprise or process under IITA Section 1501(a)(27) even though other persons who are also steps in that enterprise or process are not members of the same unitary business group because of the intervention of: the 80-20 U.S. business activity test or the rules stated in subsection (d) of this section, relating to the comparability of apportionment formulas of members of a unitary business group. EXAMPLE 1:
   A) FACTS: Corporation A manufactures furniture. Corporation C retails the furniture manufactured by Corporation A. Corporation B is a furniture finisher and wholesaler operating exclusively in Mexico which purchases Corporation A's unfinished furniture, applies the appropriate finishing materials in its Mexican plants, and sells the finished furniture to Corporation C.
   B) ANALYSIS AND CONCLUSION: Corporations A and C are steps in a vertically structured enterprise and as such can be members of the same unitary business group. They do not lose their status as steps in a vertically structured enterprise by reason of the fact that they never directly deal with one another, since they both deal with Corporation B which is also a step in the vertically structured enterprise and which would be a member of the unitary business group were it not for the intervention of the 80/20 U.S. business activity test.

6) A person will not be a step in a vertically structured enterprise or process unless it is connected to one or more other persons that are steps in the vertically structured enterprise or process by a flow of goods or services, including management services, to itself or from itself. However, if such a flow of goods or service is present with respect to a particular person, that person's status as a step in the vertically structured enterprise or process shall not depend on the relationship between the price at which such flow exists and the fair market price at which such flow would exist in an arm's length transaction. EXAMPLE 2:
   A) FACTS: Same facts as in the previous example, except that Corporation A can establish that it sells its unfinished furniture to Corporation B at a fair market arm's length price and Corporation C can establish that

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NOTICE OF PROPOSED AMENDMENTS

it purchases the finished furniture from Corporation B at a fair market arm's length price.

B) ANALYSIS AND CONCLUSION: Even with their respective showings that the flow of furniture connecting them to Corporation B existed at an arm's length price, Corporations A and C are still steps in a vertically structured enterprise and can still be members of the same unitary business group.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

1) Heading of Part: General Hearing Procedures

2) Code Citation: 20 Ill. Adm. Code 1200

3)

Section Numbers:	Proposed Action:
1200.10	New Section
1200.20	New Section

4) Statutory Authority: Authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a(A)(26)].

5) A Complete Description of the Subjects and Issues Involved: General hearing rules are being established pursuant to Section 10-5 of the Illinois Administrative Procedure Act for the conduct of review relating to contested cases and issues in which the Department may be involved and for which the Department has not adopted more particularized rules. These rules are not intended to and do not create or expand any person's or entity's due process rights that do not otherwise exist.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the date of publication of this Notice, any interested person may submit comments, data, views, or argument regarding the proposed rules. The submissions must be in writing and directed to:

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
P.O. Box 19461
Springfield, Illinois 62794-9461
217/782-7658

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

A) Types of small business, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1200
GENERAL HEARING PROCEDURES

Section
1200.10 Introduction
1200.20 Definitions
1200.30 Review Procedures

AUTHORITY: Implementing and authorized by Section 55a(A)(26) of the Civil Administrative Code of Illinois [20 ILCS 2605/55a(A)(26)].

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

Section 1200.10 Introduction

The general hearing procedures provide direction for the conduct of review relating to contested case hearings and other contested issues in which the Department may be involved and for which the Department has not adopted more particularized rules. This Part is not intended to and does not create or expand any person's or entity's due process rights that do not otherwise exist.

Section 1200.20 Definitions

"Department" means the Department of State Police.

"Director" means the Director of State Police or the Director's designee.

Section 1200.30 Review Procedures

a) An individual who contests a Department action, or contemplated action, for which there is a right to appeal may petition for relief by providing written notice of this intention to the Department.
b) Upon receiving a petition for relief, the Department shall investigate the circumstances surrounding the action; and if the Director is satisfied that substantial justice has not been done, the Director may grant relief. In the event the Director desires additional information concerning the circumstances of the action, the Director may schedule a fact-finding conference with the petitioner or otherwise further investigate.
c) At a fact-finding conference, the petitioner may be represented by counsel or any other person and may present any evidence or information relating to the Department's action.
d) The Director may provide relief as a result of a fact-finding

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED RULES

conference or as the result of further investigation.

e) If the Director does not provide relief as a result of the investigation or a fact-finding conference, the petitioner may petition for a hearing.

f) The administrative law judge for contested hearings shall be the Director or an attorney licensed to practice law in Illinois appointed by the Director. The administrative law judge may be disqualified for bias or conflict of interest.

g) The procedures for the hearing shall be as described in Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and as ordered by the administrative law judge.

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NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Code of Rules

2) Code Citation: 74 Ill. Adm. Code 440

3)

Section Numbers:	Adopted Action:
440.410	Amended
440.420	Amended

4) Statutory Authority: Implementing and authorized by Section 1-30(b) of the Illinois Procurement Code [30 ILCS 500/1-30(b)] and Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]

5) Effective Date of Amendments: February 7, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: October 22, 1999, 23 Ill. Reg. 12834

10) Has JCAR issued a Statement of Objection to the amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Portions of 74 Ill. Adm. Code 440.410 and 440.420 dealing with procurement are being amended. A complete set of procurement rules, implementing changes made by the Illinois Procurement Code, is being adopted at 44 Ill. Adm. Code 500.

16) Information and questions regarding these adopted amendments shall be directed to:

Rebecca Patton 217/782-6698
Office of the Auditor General TDD: 217/524-4646
740 E. Ash St.
Springfield, IL 62703

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

The full text of the adopted amendment begins on the next page:

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 74: PUBLIC FINANCE
CHAPTER III: AUDITOR GENERAL

PART 440
CODE OF RULES

SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

Section
440.10 Introduction
440.20 General Provisions

SUBPART B: DEFINITIONS

Section
440.110 Introduction
440.120 General Provisions
440.130 Abbreviations
440.140 Specific Definitions

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION OF FINANCIAL AUDIT OR COMPLIANCE AUDIT

Section
440.210 Introduction
440.220 Clarification

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS BY THE OFFICE OF THE AUDITOR GENERAL

Section
440.310 Introduction
440.320 General Provisions
440.330 Procedures

SUBPART E: CONTRACTUAL PERSONAL SERVICES

Section
440.410 Introduction
440.420 General Provisions

SUBPART F: OATHS

Section
440.510 Introduction
440.520 General Provisions

SUBPART G: SUBPOENAS

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

SUBPART H: DEPOSITIONS

SUBPART I: FINANCIAL ADMINISTRATION OF THE STATE AUDIT ADVISORY BOARD

AUTHORITY: Subparts A and B implementing and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]; Subpart C implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart D implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12] and Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]; Subpart E implementing and authorized by Section 2-12(c)(2) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(2)]; Subpart F implementing and authorized by Section 2-12(c)(3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(3)]; Subpart G implementing and authorized by Section 2-12(c)(4) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(4)]; Subpart H implementing and authorized by Sections 2-12(c)(1) and (3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(1) and (3)].

SOURCE: Rules and Regulations of the Auditor General filed and effective February 1, 1976; amended at 2 Ill. Reg. 46, p. 17, effective November 17, 1978; amended at 3 Ill. Reg. 5, p. 860, effective February 2, 1979; amended at 3 Ill. Reg. 50, p. 195, effective December 13, 1979; amended at 4 Ill. Reg. 49, p. 91, effective November 21, 1980; codified at 5 Ill. Reg. 10584; amended at 6 Ill. Reg. 12253, effective September 24, 1982; amended at 20 Ill. Reg. 730, effective January 31, 1996; amended at 24 Ill. Reg. 2321, effective FEB - 7 2000.

SUBPART E: CONTRACTUAL PERSONAL SERVICES

Section 440.410 Introduction

a) SUBJECT. A rule for the appointment of Special Assistant Auditors and/or nonlicensed entities or individuals performing contractual personal services for the Office of the Auditor General.
b) SCOPE. This Subpart governs all contracts with individuals and

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

entities performing professional and artistic services for the Office of the Auditor General ~~except:~~
~~1) Services by individuals covered (Personnel Rule);~~
~~2) Those services secured through competitive bidding;~~
~~3) Contractual personal services for the maintenance of equipment.~~
c) AUTHORITY. Section 2-12(c)(2), ISAA [30 ILCS 5/2-12(c)(2)].
d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this rule:
1) Standards of Construction for Rules (Subpart A of this Part).
2) Definitions (Subpart B of this Part).
e) EFFECTIVE DATE. This Subpart becomes effective on November 21, 1980.

(Source: Amended at 24 Ill. Reg. 2321, effective FEB - 7 2000)

Section 440.420 General Provisions

a) GENERAL PROVISIONS.
1) Conflicts. No Contractor, Subcontractor or associated principal shall have any interest which would conflict in any manner with the performance of the services to be provided under a contract.
2) Contractual evidence. All services secured under this subpart shall be the subject of a written contract, which contract shall be duly approved.
3) ~~Selection. All persons other than specified in subsection (b) below shall be employed upon the recommendation of an Executive Employee who shall have obtained from a prospective contractor or contractors resumes, supporting materials regarding qualifications and experience, responses to proposals or other documentation of proposed work, objectives, costs and credentials to determine the capability of the Contractor to perform the work contemplated under a contract.~~
4) Delegations of authority.
Any delegation of authority by the Auditor General to sign, issue or effectuate, in the name of the Auditor General, Requests for Proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office shall be maintained in writing, signed and dated by the Auditor General, at the office's Springfield location. The form of signature for any delegated authority shall be specified in the document effecting the delegation.
5) ~~Documentation. Contract files shall be maintained by the Office of the Auditor General pursuant to 74 Ill. Adm. Code 420. Subpart G and shall contain the resumes, supporting materials regarding qualifications and experience, response to proposals or other documentation of proposed work, objectives, costs and credentials to perform work designated in the contract upon which the selection was based, together with the signature of the Executive~~

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~~Employee recommending the selection.~~

b) SPECIAL ASSISTANT AUDITORS.

The services of special assistant auditors shall be procured pursuant to the requirements of the Auditor General's Standard Procurement Rules [44 Ill. Adm. Code 500].

~~1) General------Designation.---Where--the--contract-contemplates-the designation--of--Special--Assistant--Auditors,--the---individuals granted-this-status-shall-be-set-out-as-required-by-the-contract.~~

~~2) Compliance-audit-duties.~~

~~A) Prequalification.--Firms--and--individuals-may-request-to-be placed-on-the-list-of-available-firms--for--the--conduct--of compliance--audits--by-submitting-prequalification-documents in-the-form-supplied-by-the-Office-of-the-Auditor-General-to the-Compliance-Audit-Director.~~

~~B) Selection.--The-Compliance-Audit-Director-shall-select-audit firms-or-individuals-to-conduct--preliminary--surveys--of--a State--agency--for--purposes--of--submitting--a--proposal-to conduct--an--audit.--The--survey--shall--cover--those--items specified-by-the-audit-director.-Upon-receipt-of-a--proposal or--proposals-satisfactory-to-the-Compliance-Audit-Director, a-contract-to-perform-the-audit-or-a-part-thereof--shall--be tendered--by--the--Compliance--Audit-Director-to-the-Auditor General-or-the-Auditor-General's-designee-for-approval.~~

~~3) Performance-audit-duties----Request-for-proposal----preparation.~~

~~A) All-performance-audit-contracts-shall-be-the--subject--of--a Request--for--Proposal-prepared-under-the-supervision-of-the Performance-Audit-Director,-unless-(in-specific-cases)--this requirement-is-waived-by-the-Auditor-General.~~

~~B) Such--waiver--may--be--granted-in-cases-where-conditions-and restrictions---are---externally---imposed----which----render impracticable--the--requirement--of--a-Request-for-Proposal. Such-conditions-include-but-are-not-limited-to:~~

~~i) time-restrictions-on-the-completion-of-the-report;~~

~~ii) limitations-as-to-the-source-from-which-such--services are-available;~~

~~iii) situations--in--which--an--individual-Contractor-has-a background-of-prior--knowledge--and--experience--which renders-uneconomic-the-use-of-the-Request-for-Proposal process.~~

~~4) Performance-Audit-Duties----Request-for-proposal----distribution.~~

~~A) The--Request--for--Proposal--shall--be--distributed--to--all interested--parties-with-a-notice-to-submit-to-the-Office-of the-Auditor-General-at-least-10-days-prior-to-time-scheduled for-evaluation.~~

~~B) When-the-Auditor-General-determines-that-it-is-in--the--best interest--of--the--state--to--extend-a-time-period-to-submit Requests-for-Proposals,-on-any-subject-matter,--all--parties known--by-the-Office-of-the-Auditor-General-to-have-received a-Request-for-Proposal-shall--be--notified--of--the--closing date.~~

~~C) Such-extensions-may-be-granted-when:~~

~~i) the--number--of-adequate-proposals-received-within-the time-period-previously-specified-is-not-sufficient--to form-a-basis-for-selection;~~

~~ii) it--is-apparent,-on-the-basis-of-information-submitted by-interested-parties-to-whom--Request--for--Proposals have--been--directed,--that-the-time-period-previously established-is-inadequate.~~

~~5) Performance-Audit-Duties----Request-for-proposal----evaluating.--Upon-expiration-of-the-time-specified-in-the-notice-to--submit--a Request--for-Proposal,-the-Performance-Audit-Director-shall-cause an-evaluation-to-be-made-of-all-Requests-for-Proposals-received.~~

~~6) Performance-Audit-Duties----Execution-of-contract.---Upon-receipt of-a-satisfactory-Request-for--Proposal,--the--Performance--Audit Director--shall--tender-a-contract-to-perform-the-services-to-the Auditor-General-or-the-Auditor-General's-designee-for-approval.~~

~~7) Information--Systems--Audit---Duties----Whenever---possible---and practicable,--the-Information-Systems-Audit-Director-shall-select individuals-or-firms-to-perform-information-systems--audits--that are---prequalified---under---subsection--(b)(2)(A)--above.----Upon selecting-an-individual-or-firm-qualified-to-perform--the--audit, the-Information-Systems-Audit-Director-shall-tender-a-contract-to the--Auditor--General--or--the--Auditor--General's--designee--for approval.~~

(Source: Amended at 24 Ill. Reg. 2321, effective FEB - 7 2000)

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Numbers: 113.113 — Adopted Action: Amendment

4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12- 13].

5) Effective Date of Amendments: February 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 8, 1999 (23 Ill. Reg. 12019)

10) Has JCAR Issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:

1. References to "U.S.C." were changed to "USC".

2. In Section 113.113(a)(28), "federal" was inserted before "Crime Act".

No other substantive changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendment: These amendments establish that payments made under the Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund) are exempt from consideration as income for the Aid to the Aged, Blind or Disabled program. Companion amendments are also being adopted in 89 Ill. Adm. Code 112 and 114.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: PAYMENT AMOUNTS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: OTHER PROVISIONS

SUBPART F: INTERIM ASSISTANCE

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective

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September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill.

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Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency

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amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995; emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective FEB - 1 2000.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.113 Exempt Unearned Income

a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
   1) The value of the coupon allotment under the Food Stamp Act of 1977 (7 USC ~~U.S.C.~~ 2017(b));
   2) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
   3) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC ~~U.S.C.~~ 1780(b)), and the special food service program for children under the

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National School Lunch Act, as amended (42 USC ~~U.S.C.~~ 1760);

4) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC ~~U.S.C.~~ 3045 et seq.);
5) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC ~~U.S.C.~~ 4636);
6) Any funds distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, or P.L. 94-540;
7) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (42 USC ~~U.S.C.~~ 1601 et seq.);
8) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title VI of the Older Americans Act of 1965, as amended (42 USC ~~U.S.C.~~ 3045 et seq.);
9) Payments to Volunteers under the 1973 Domestic Volunteer Service Act (48 USC ~~U.S.C.~~ 5044(q)). These include:
   A) Vista Volunteers; and
   B) Volunteers serving as senior health aides, senior companions, foster grandparents, or persons serving in the Service Corps of Retired Executives (SCOPE) or the Active Corps of Executives (ACE);
10) Income received under the provisions of Section 1 of the Illinois Senior Citizens and Disabled Persons Property Tax Relief Act [320 ILCS 25/1]. This includes both the benefits commonly known as the "circuit breaker" and "additional grants";
11) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975 under Section 23 of the U.S. Housing Act of 1937, as amended (42 USC ~~U.S.C.~~ 1437(f));
12) Any payments distributed per capita or held in trust for members of Indian tribes under Sections 5 of P.L. 94-114 that became effective October 17, 1975;
13) SSI lump sum payments received by MANG participants who reside in the community (not residing in a long term care facility, DMHDD facility or other medical facility);
14) Any adoption subsidy received from DCFS;
15) Any foster care payment received from DCFS except independent living arrangement payments;
16) Title IV-E adoption assistance or foster care payment received from a state welfare agency of another state are exempt for MANG;
17) Any payment received from the Self Sufficiency Trust Fund established in accordance with Section 21.1 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/21.1];
18) Any payment received under Title I of P.L. 100-383, the Civil Liberties Act of 1988, which provides that restitution shall be made to United States citizens and permanent resident aliens of Japanese ancestry who were interned during World War II;
19) Any payment received under Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, which provides that restitution shall be made to any Aleut living on the date of enactment of P.L. 100-383 (August 10, 1988) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location during World War II; or who was born while his or her natural mother was subject to such relocation;
20) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
21) Payments received under the Radiation Exposure Compensation Act;
22) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS);
23) Earnings, allowances, and payments received under Title I of the National and Community Service Act of 1990;
24) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
25) The amount of earned income tax credit which the client receives as advance payment or as a refund of federal income tax;
26) German reparation payments made under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution (Germany Restitution Act) to survivors of the Holocaust; ~~and~~
27) Payments of up to $2000 per year derived from individual interests in Indian trust or restricted lands under P.L. 103-66; and ~~.~~
28) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund).

b) In addition to the above, the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility for assistance and amount of the assistance payment:
   1) The value of home produce which is used for personal consumption; and
   2) Social Security death benefit expended on a funeral and/or burial.

(Source: Amended at 24 Ill. Reg. ~~2328~~ 3, effective FEB - 1 2000)

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1) Heading of the Part: General Assistance

2) Code Citation: 89 Ill. Adm. Code 114

3) Section Numbers: Adopted Action:
114.210 Amendment

4) Statutory Authority: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

5) Effective Date of Amendments: February 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 8, 1999 (23 Ill. Reg. 12048)

10) Has JCAR Issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The following change was made in the text of the proposed amendments:

1. In Section 114.210(o), "federal" was inserted before "Crime Act"." No other substantive changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Rule(s): These amendments establish that payments made under the Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund) are exempt from consideration as income for General Assistance. Companion amendments are also being adopted in 89 Ill. Adm. Code 112 and 113.

16) Information and questions regarding these adopted amendments shall be directed to:

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Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 114
GENERAL ASSISTANCE

SUBPART A: GENERAL PROVISIONS

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

SUBPART C: PROJECT ADVANCE

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SUBPART D: EMPLOYMENT AND TRAINING REQUIREMENTS

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

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SUBPART F: PAYMENT AMOUNTS

SUBPART G: OTHER PROVISIONS

SUBPART H: CHILD CARE

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SUBPART I: TRANSITIONAL CHILD CARE

AUTHORITY: Implementing Article VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. VI and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at

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5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 7, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9909, effective August 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 16107; amended at 7 Ill. Reg. 16408, effective November 30, 1983; amended at 7 Ill. Reg. 16652, effective December 1, 1983; amended at 8 Ill. Reg. 243, effective December 27, 1983; amended at 8 Ill. Reg. 5233, effective April 9, 1984; amended at 8 Ill. Reg. 6764, effective April 27, 1984; amended at 8 Ill. Reg. 11435, effective June 27, 1984; amended at 8 Ill. Reg. 13319, effective July 16, 1984; amended at 8 Ill. Reg. 16237, effective August 24, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17896; amended at 9 Ill. Reg. 314, effective January 1, 1985; emergency amendment at 9 Ill. Reg. 823, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9557, effective June 5, 1985; amended at 9 Ill. Reg. 10764, effective July 5, 1985; amended at 9 Ill. Reg. 15800, effective October 16, 1985; amended at 10 Ill. Reg. 1924, effective January 17, 1986; amended at 10 Ill. Reg. 3660, effective January 30, 1986; emergency amendment at 10 Ill. Reg. 4646, effective February 3, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 4896, effective March 7, 1986; amended at 10 Ill. Reg.

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10681, effective June 3, 1986; amended at 10 Ill. Reg. 11041, effective June 5, 1986; amended at 10 Ill. Reg. 12662, effective July 14, 1986; amended at 10 Ill. Reg. 15118, effective September 5, 1986; amended at 10 Ill. Reg. 15640, effective September 19, 1986; amended at 10 Ill. Reg. 19079, effective October 24, 1986; amended at 11 Ill. Reg. 2307, effective January 16, 1987; amended at 11 Ill. Reg. 5297, effective March 11, 1987; amended at 11 Ill. Reg. 6238, effective March 20, 1987; emergency amendment at 11 Ill. Reg. 12449, effective July 10, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 12948, effective August 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 18311, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 18689, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18791, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20129, effective December 4, 1987; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 889, effective January 1, 1988; SUBPARTS C, D and E recodified to SUBPARTS E, F and G at 12 Ill. Reg. 2147; Section 114.110 recodified to Section 114.52 at 12 Ill. Reg. 2984; amended at 12 Ill. Reg. 3505, effective January 22, 1988; amended at 12 Ill. Reg. 6170, effective March 18, 1988; amended at 12 Ill. Reg. 6719, effective March 22, 1988; amended at 12 Ill. Reg. 9108, effective May 20, 1988; amended at 12 Ill. Reg. 9699, effective May 24, 1988; amended at 12 Ill. Reg. 9940, effective May 31, 1988; amended at 12 Ill. Reg. 11474, effective June 30, 1988; amended at 12 Ill. Reg. 14255, effective August 30, 1988; emergency amendment at 12 Ill. Reg. 14364, effective September 1, 1988, for a maximum of 150 days; amendment at 12 Ill. Reg. 16729, effective September 30, 1988; amended at 12 Ill. Reg. 20171, effective November 28, 1988; amended at 13 Ill. Reg. 89, effective January 1, 1989; amended at 13 Ill. Reg. 1546, effective January 20, 1989; amended at 13 Ill. Reg. 3900, effective March 10, 1989; amended at 13 Ill. Reg. 8580, effective May 20, 1989; emergency amendment at 13 Ill. Reg. 16169, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 16015, effective October 6, 1989; amended at 14 Ill. Reg. 746, effective January 1, 1990; amended at 14 Ill. Reg. 3640, effective February 23, 1990; amended at 14 Ill. Reg. 6360, effective April 16, 1990; amended at 14 Ill. Reg. 10929, effective June 20, 1990; amended at 14 Ill. Reg. 13215, effective August 6, 1990; amended at 14 Ill. Reg. 13777, effective August 10, 1990; amended at 14 Ill. Reg. 14162, effective August 17, 1990; amended at 14 Ill. Reg. 17111, effective September 30, 1990; amended at 15 Ill. Reg. 288, effective January 1, 1991; amended at 15 Ill. Reg. 5710, effective April 10, 1991; amended at 15 Ill. Reg. 11164, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 15144, effective October 7, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3512, effective February 20, 1992; emergency amendment at 16 Ill. Reg. 4540, effective March 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 11662, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13297, effective August 15, 1992; emergency amendment at 16 Ill. Reg. 13651, effective September 1, 1992, for a maximum 150 days; emergency amendment at 16 Ill. Reg. 14769, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 16276, effective October 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17772, effective

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November 13, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 18815, effective November 24, 1992; amended at 17 Ill. Reg. 1091, effective January 15, 1993; amended at 17 Ill. Reg. 2277, effective February 15, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 3639, effective February 26, 1993; amended at 17 Ill. Reg. 3255, effective March 1, 1993; amended at 17 Ill. Reg. 6814, effective April 21, 1993; emergency amendment at 17 Ill. Reg. 19728, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3436, effective February 28, 1994; amended at 18 Ill. Reg. 7390, effective April 29, 1994; amended at 18 Ill. Reg. 12839, effective August 5, 1994; emergency amendment at 19 Ill. Reg. 8434, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15058, effective October 17, 1995; emergency amendment at 20 Ill. Reg. 4445, effective February 28, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9970, effective July 10, 1996; emergency amendment at 21 Ill. Reg. 682, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7413, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8652, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15545, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 16356, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19820, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 588, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1619, effective January 20, 1999; amended at 23 Ill. Reg. 6067, effective May 4, 1999; amended at 23 Ill. Reg. 6434, effective May 15, 1999; amended at 23 Ill. Reg. 6948, effective May 30, 1999; emergency amendment at 23 Ill. Reg. 8661, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13863, effective November 19, 1999; amended at 24 Ill. Reg. 2338, effective FEB - 1 2000.

SUBPART E: FINANCIAL FACTORS OF ELIGIBILITY

Section 114.210 Exempt Unearned Income

The following unearned income shall be exempt from consideration in determining eligibility and the level of assistance payment.

a) The value of the coupon allotment under the Food Stamp Act of 1977 (7 USC 2017(b));
b) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
c) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
d) Any per capita judgment funds paid under P.L. 92-254 to members of the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana (25 USC 1264);
e) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3030e);

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f) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program (42 USC 5001) and the Foster Grandparent Program (42 USC 5011) and Older Americans Community Service Employment Program (42 USC 3056) established under Title II of the Domestic Volunteer Service Act (42 USC 5001 thru 5023), as amended;
g) Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25/4(c)]. This includes both the benefits commonly known as the circuit breaker and "additional grants";
h) Payments Under Certain Federal Programs
   1) Any payment to volunteers in programs under Title II of the 1973 Domestic Volunteer Services Act, as amended (42 USC 5044(q)). Examples of these programs include RSVP, Foster Grandparents and other programs.
   2) Payments made under Title I (VISTA, University Year for Action and Urban Crime Prevention Program) are exempt only if the individual was receiving public assistance at the time he/she joined VISTA;
i) Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances received through the Job Training Partnership Act (29 USC 1501-1781);
j) Any payment received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 USC 1989b thru 1989b-8);
k) Any payment received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 USC 1989c thru 1989c-8);
l) Payments made by the Illinois Department of Human Services under the Family Assistance Law for Mentally Disabled Children under P.A. 86-921 [405 ILCS 80/Art. III].
m) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
n) Employment-related reimbursement for past or future expenses to the extent that they do not exceed actual expenses incurred and do not represent a gain or benefit to the client.
o) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund).

(Source: Amended at 24 Ill. Reg. 2338, effective FEB - 1 2000)

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1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Adopted Action:
112.110 Amendment

4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

5) Effective Date of Amendments: February 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 8, 1999 (23 Ill. Reg. 12064)

10) Has JCAR Issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The following change was made in the text of the proposed amendments:

1. In Section 112.110(a)(29), "federal" was inserted before "Crime Act".

No other substantive changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendments: These amendments establish that payments made under the Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund) are exempt from consideration as income for Temporary Assistance for Needy Families. Companion amendments are also being adopted in 89 Ill. Adm. Code 113 and 114.

16) Information and questions regarding these adopted amendments shall be

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directed to:

Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

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SUBPART E: PROJECT ADVANCE

SUBPART F: EXCHANGE PROGRAM

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

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SUBPART H: PAYMENT AMOUNTS

SUBPART I: OTHER PROVISIONS

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SUBPART J: CHILD CARE

SUBPART K: TRANSITIONAL CHILD CARE

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134,

effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted

and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective

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August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg.

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8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December

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28, 1999; amended at 24 Ill. Reg. 2348, effective FEB - 1 2000.

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section 112.110 Exempt Unearned Income

a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility and the level of assistance payment:
   1) The value of the coupon allotment under the Food Stamp Act of 1977 (7 USC 2017(b));
   2) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
   3) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
   4) Any funds distributed per capita to or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, P.L. 94-114 or P.L. 94-540;
   5) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
   6) Any compensation provided to individual volunteers under the Volunteers in Service to America (VISTA) Program (known as Americorps VISTA). Payments made under Americorps State/National programs, funded under the National and Community Service Act of 1993, are not exempt. Stipends or living allowance payments made under this program are considered nonexempt earned income. These payments are subject to the general rules concerning the budgeting of earned income;
   7) Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25/4]. This includes both the benefits commonly known as the circuit breaker and additional grants;
   8) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of P.L. 93-113;
   9) Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances received through the Jobs Training Partnership Act;
   10) Social Security death benefit expended on a funeral and/or burial;
   11) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC 1780(b)) and the special food service program for children under the National

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School Lunch Act, as amended (42 USC 1760);
   12) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 USC 1626);
   13) Payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 USC 1989b through 1989b-8);
   14) Payments received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 USC 1989c through 1989c-8);
   15) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump-sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
   16) Payments received under the federal Radiation Exposure Compensation Act (42 USC 2210 nt);
   17) Federal subsidized housing payments under Section 8 of the Housing and Community Development Act (42 USC 1437f);
   18) Any adoption subsidy payment or foster care payment received from DCFS or from a state welfare agency of another state are exempt for MAG and MANG. Independent Living Arrangement Payments are not exempt for MAG and MANG;
   19) Supportive Service payments (Section 112.82);
   20) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2605(f) of P.L. 97-35;
   21) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
   22) Any payment provided by the Department of Human Services under the Family Assistance Program for Mentally Disabled Children under P.A. 86-921;
   23) GA Emergency Financial Assistance issued through vendor payment. These payments can only be issued once in a twelve-month period to persons who do not currently receive TANF cash assistance;
   24) A nonrecurring lump-sum SSI or SSA payment made to an individual in a TANF assistance unit. The nonrecurring SSA lump sum is exempt if it is based on disability. The monthly amount, up to the monthly SSI level for one, is exempt. For those individuals not in a TANF assistance unit whose income is used to determine TANF eligibility for others (for example, stepparents, parents), the lump-sum payment is nonexempt income for the month received;
   25) Payments made to individuals because of their status as victims of Nazi persecution pursuant to P.L. 103-286;
   26) Payments to a member of the Passamquoddy Indian Tribe, the Penobscot Nation of the Houlton Band of the Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980;
   27) Up to $2000 per year of income received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands pursuant to Section 13736 of P.L.

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103-66; and

28) Payments based on disability status are disregarded in an amount up to the Supplemental Security Income (SSI) payment level for one person with no income. This disregard applies to disability benefits from Social Security (including SSI), Railroad Retirement Disability, Department of Veterans' Affairs (100% disability only) and Black Lung; and

29) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund).

b) In addition to the above, the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility and the level of assistance payment:

1) Inconsequential income, which is defined as gifts, prizes or other unearned income (excluding those unearned income items referenced in subsections (a)(1) through (a)(28) described in other provisions of the Section) of up to $50 per person per quarter;

2) The value of home produce which is used for personal consumption;

3) Child support payments made to an assistance unit by the Department which represents the first $50 or any lesser amount of support collected in a month;

4) Two dollars of every $3 of excess child support distributed by the child support agency to a family with earnings budgeted. This includes the wage supplementation programs of On-the-Job Training, Job Corps, Americorps VISTA, and work study;

5) Payments from the principal or trust of a trust fund made to or on behalf of a dependent child when the court orders the money released for a specific purpose other than the income maintenance needs of the child;

6) Earmarked child support payments received by the client for the support of a child not included in the assistance unit;

7) Cash which is exchanged for purposes of satisfying payment of shelter-related obligations in situations where the assistance unit shares a dwelling unit with another family, individual or individuals. The money is not available to meet the needs of the party who received and disburses the shelter-related payment; and

8) Employment-related reimbursements for past or future expenses to the extent that they do not exceed actual expenses incurred and do not represent a gain or benefit to the client.

(Source: Amended at 24 Ill. Reg. 2348, effective FEB - 1 2000)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rulemaking and Organization

2) Code Citation: 2 Ill. Adm. Code 825

3)

Section Numbers:	Adopted Action:
825.110	Amendment
825.120	Amendment
825.130	Amendment
825.190	Amendment
825.210	Amendment
825.220	Amendment
825.230	Amendment
TABLE A	Amendment

4) Statutory Authority: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

5) Effective Date of Amendments: January 25, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: Not Applicable - This Part is not subject to First Notice.

10) Has JCAR issued a Statement of Objections to these rules? This rulemaking is not subject to JCAR's review.

11) Differences between proposal and final version: Not Applicable

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Not Applicable

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This is a Department of Natural Resources internal rule. It is being amended to update statutory citations, addresses, responsibilities of the Director and Deputy Directors and the Organization Chart.

16) Information and questions regarding these adopted amendments shall be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

directed to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER VI: DEPARTMENT OF CONSERVATION

PART 825
RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
825.5 Public Information and Records
825.10 Record Search (Repealed)
825.20 Appeal (Repealed)
825.30 Fees (Repealed)

SUBPART B: RULEMAKING

Section
825.110 Rulemaking
825.120 Recommended by Member of Public
825.130 Request for a Public Hearing
825.140 Notice of Hearing
825.150 Hearing Officer
825.160 Written Comments
825.170 Record
825.180 Promulgation of Rulemaking Pursuant to Public Hearing
825.190 Filing and Publication of Adopted Rules

SUBPART C: ORGANIZATION STRUCTURE

Section
825.210 Organization Location
825.220 Organization Structure
825.230 Organization Chart

TABLE A Organization Chart
EXHIBIT A Request for DOC Records (Repealed)
EXHIBIT B Request for Agency Records - DOC Response (Repealed)
EXHIBIT C Director's Response to Public Information Appeal Request (Repealed)

AUTHORITY: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Rules Governing Department Formal Hearings Conducted for Rulemaking and Contested Cases, filed December 21, 1977, effective December 31, 1977; codified as 17 Ill. Adm. Code 2530 at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Release and Disclosure of Agency Information

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

to the Public, adopted and codified as 17 Ill. Adm. Code 2540 at 7 Ill. Reg. 8771, effective July 15, 1983; 17 Ill. Adm. Code 2530: Subpart B recodified as 2 Ill. Adm. Code 825: Subpart B and 17 Ill. Adm. Code 2540 recodified as 2 Ill. Adm. Code 825: Subpart A at 8 Ill. Reg. 4133; Subpart C adopted at 8 Ill. Reg. 4135, effective March 19, 1984; amended at 8 Ill. Reg. 7807, effective May 23, 1984; amended at 11 Ill. Reg. 19079, effective November 9, 1987; amended at 16 Ill. Reg. 18974, effective December 1, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9398; amended at 24 Ill. Reg. 2361, effective January 25, 2000.

SUBPART B: RULEMAKING

Section 825.110 Rulemaking

Rules are promulgated by the Department in accordance with the Illinois Administrative Procedure Act [5 ILCS 100] ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1001 et seq.)~~. Department staff may recommend rulemaking pursuant to the Department's Intra-Agency Policy Chapter 1, Section 1-2 ~~#1031-E~~. The general public may recommend rulemaking pursuant to the procedures in this Part.

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

Section 825.120 Rules Recommended by Member of Public

a) Rules may be recommended by members of the public.
b) Two copies of each rule proposed for adoption, amendment or repeal shall be filed with the Department at the following address: 524 S. Second Street, Room 400 ~~405~~, Attention: Administrative Rules Coordinator. Each proposal shall include:
   1) The text of the proposed regulation or amendment; and
   2) A statement of the reasons supporting the proposal, including a short and plain statement of facts known to the proponent which support the proposal, and a short and plain statement of the purpose and effect of the proposal. Where the proposal covers more than one substantive point, the supporting statement shall include such statements in support of each point.
c) The Department will review the proposal and determine whether to take appropriate rulemaking action.
d) The proponent will be advised in writing by the Department whether the proposal is accepted or denied and will be provided with the reasons for the determination.
e) In making a determination, the Department will take into consideration such factors as the proposal's compliance with the statutory authority and legislative intent upon which it is based, whether the proposal meets the definition of a rule pursuant to Section 1-70 of the Illinois Administrative Procedure Act, if the proposal is enforceable, and if the proposal is consistent with the responsibilities of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Department to conserve, preserve and enhance Illinois resources and to meet the needs of outdoor recreation.

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

Section 825.130 Request for a Public Hearing

a) Public Hearings shall be held to obtain public comment on proposed rules when required by criteria set forth in Section 5-40 ~~5-01-(a)~~ of the Illinois Administrative Procedure Act. If a hearing is not required and a member of the public requests a hearing, the Director will determine whether to authorize a hearing. If the Department does not provide a public hearing, it shall notify the rule proponent of its decision and the reasons for denying the request.
b) If the Department authorizes a hearing, the Director shall designate a Hearing Officer, and shall notify the proponent of such designation.

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

Section 825.190 Filing and Publication of Adopted Rules

a) The Department shall file in the Office of the Secretary of State and in the Department's principal office a copy of each rule or repeal of any rule adopted by the Department.
b) The agency shall publish all rules in the Illinois Register. Copies of adopted rules will be sent to the Sheriff of every county in the State and will be available at all offices of the Department.
c) Certified copies of rules adopted by the Department may be obtained by contacting the Administrative Rules Coordinator; 524 S. Second Street, Room 400 ~~405~~, Springfield, IL 62701 ~~62706~~.

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

SUBPART C: ORGANIZATION STRUCTURE

Section 825.210 Organization Location

The principal offices of the Department of Conservation are located at 524 South Second Street, Springfield, Illinois 62701 ~~62706~~ and 100 W. Randolph, Chicago, Illinois 60601. There are five regional offices located throughout the state. At each regional office and in Springfield there are wildlife and fisheries biologists, foresters, land managers, and law enforcement officers who can assist the public with any specific conservation-related matter. Regional offices for the department are as follows:

Region I	Region IV
2612 Locust Street	4521 Alton Commerce Parkway
Sterling, IL 61081	Alton, IL 62002

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Phone: (815)625-2968

Region II
110 James Road
Spring Grove, IL 60081
Phone: (815)675-2385

Region III
2005 Round Barn Road ~~8-Henson-Place~~
Champaign, IL 61821 ~~61820~~
Phone: (217)333-5773

Phone: (618)462-1181

Region V
11731 State Highway 37 ~~R.R.-4,-Box-200~~
Benton, IL 62812
Phone: (618)435-8138

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

Section 825.220 Organization Structure

The Department is comprised of the Office of the Director, the Office of the Deputy Director and the Office of the Assistant Director, with various offices and divisions reporting to each. The responsibilities of the organizational structure are as follows:

a) Office of the Director
The ~~Office of the~~ Director supervises the two Deputy Directors and has ultimate supervisory authority over the entire Department. The Director has delegated to the two Deputy Directors oversight and ordinary supervision of the various Department offices. ~~houses Public Relations, the Equal Employment Opportunity Program, Internal Audit, legislation and Budget and Finance. Public Relations is responsible for dissemination of information to the citizens of Illinois through press releases and responses to media inquiries. The Equal Employment Opportunity Program also oversees Affirmative Action, and ensures that the Department effectuates these programs. Internal Audit conducts studies of Department functions and record keeping as prescribed by state statute. The Office of Legislative prepares legislation, lobbies the legislature, and tracks all legislation which would affect the Department. The Division of Budget and Finance develops the budget and monitors departmental expenditures. The Office of the Director also includes his personal staff of assistants and support staff to help carry out the programs and duties of the Department.~~

b) Office of the Deputy Director
One ~~The~~ Office of ~~the~~ Deputy Director supervises the Office of Legal Counsel, the Office of Fiscal Management, the Office of Legislation and Constituency Services, the Office of Public Affairs, the Equal Opportunity Officer, the Office of Administration, the Office of Resource Conservation, the Office of Scientific Research, the Office of Realty and Environmental Planning, and the Division of Human Resources. ~~houses the Northern Illinois Coordinator, the Office of Legal Affairs, the Office of Administration, the Office of law enforcement and the Office of Natural Resources Management. The~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

~~Northern Illinois Coordinator is the administrator and supervisor of the State of Illinois Center office staff. Legal Affairs is the Department's in house counsel, this division also handles Administrative Rules and Freedom of Information requests. The Office of Administration includes Employee Services which handles personnel matters. It also includes the Divisions of Systems and Licensing and Administrative Support which issue commercial and sportsmen's licenses, boat and snowmobile titles, special permits and stamps, and coordinate licenses, leases and rights of way, and provide internal support services relating to data processing, office supplies and mail services. The Office of Law Enforcement is primarily responsible for enforcing the provisions of the Fish Code, Wildlife Code, Boat Registration and Safety Act, Snowmobile Registration and Safety Act, Endangered Species Protection Act, and the Timber Buyers Act. They also have full police authority and often are called to assist local law enforcement agencies. In addition to its law enforcement duties, this office provides a variety of public services including the administration of hunting, boating and snowmobiling safety education programs throughout the State. The Office of Natural Resource Management houses five divisions: Forestry, Wildlife, Natural Heritage, Fisheries and Environmental Impact Analysis. These divisions administer several programs to conserve the State's plant and animal resources. These programs include acquiring and managing prime habitat, providing technical assistance to public and private landowners, setting hunting and fishing regulations and engaging in propagation practices.~~

c) Office of the Deputy Assistant Director
The other Office of Deputy ~~the Assistant~~ Director supervises the Office of Internal Audit, the Office of Mines and Minerals, the Office of Water Resources, the Office of Capitol Development, the Office of Land Management and Education, the Office of Law Enforcement, and the Office of Public Services. ~~consists of Disposition and Inspections, Recycling and Internships, the Office of Resource Marketing and Education, the Office of Land Management, and the Office of Planning and Development. Disposition and Inspections is in charge of disposing of or demolishing unusable buildings and inspecting concessionaires. Recycling and Internship coordinates those two programs. The Office of Resource Marketing and Education oversees Special Events, Outdoor Highlights, Kis for Conservation, Advertising and Merchandise Sales. The Office of Land Management manages the lands under the jurisdiction of the Department. The Office of Planning and Development works out long range plans, administers grants, oversee the heavy equipment operations and coordinates the acquisition of new lands.~~

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

Section 825.230 Organization Chart

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

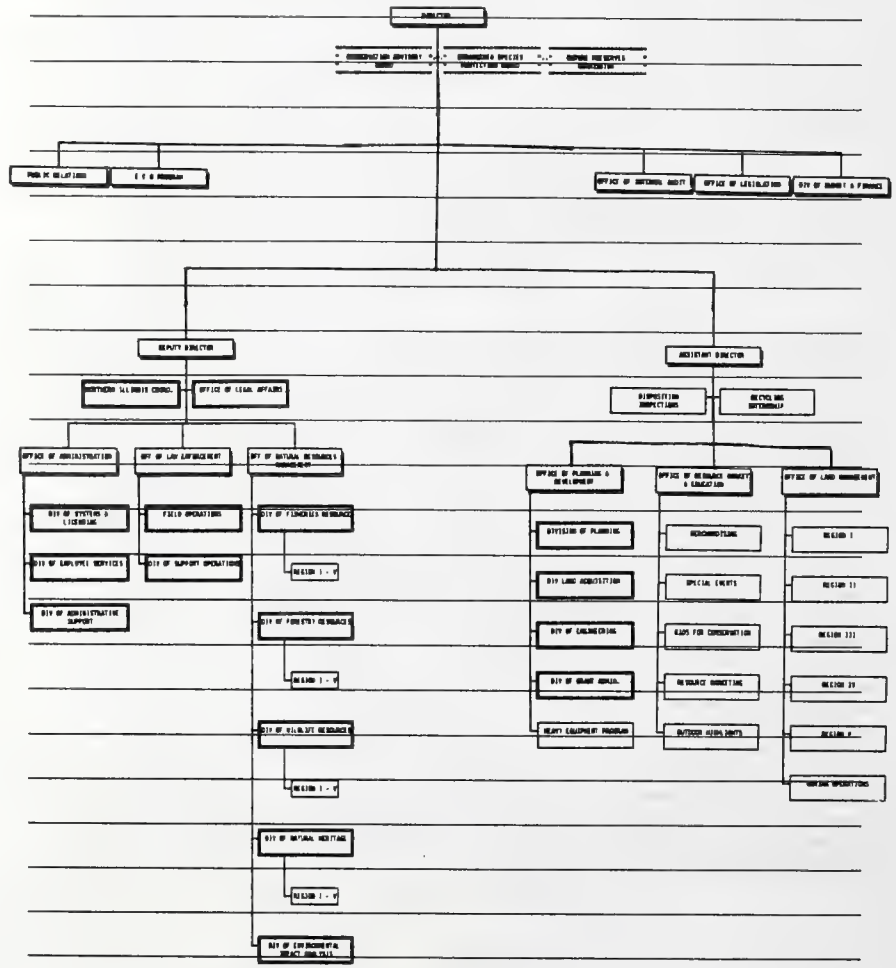
A Department of Natural Resources Organization Chart is shown in Table A. A description of the specific responsibilities and duties of each office depicted on the Table and Department personnel positions is maintained in the Springfield Office and is available for public inspection. ~~The--specific personnel--positions-and-their-organizational-and-supervisory-relationships-are presented-in-the-Department-of-Conservation-Organization-Chart-shown--in--Table A.---A--description--of-the-specific-responsibilities-and-duties-of-each-of-the personnel-positions-of-the-department-is-maintained-in-the--Springfield--office and-is-available-for-public-inspection.~~

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 825. TABLE A Organization Chart



DEPARTMENT OF NATURAL RESOURCES

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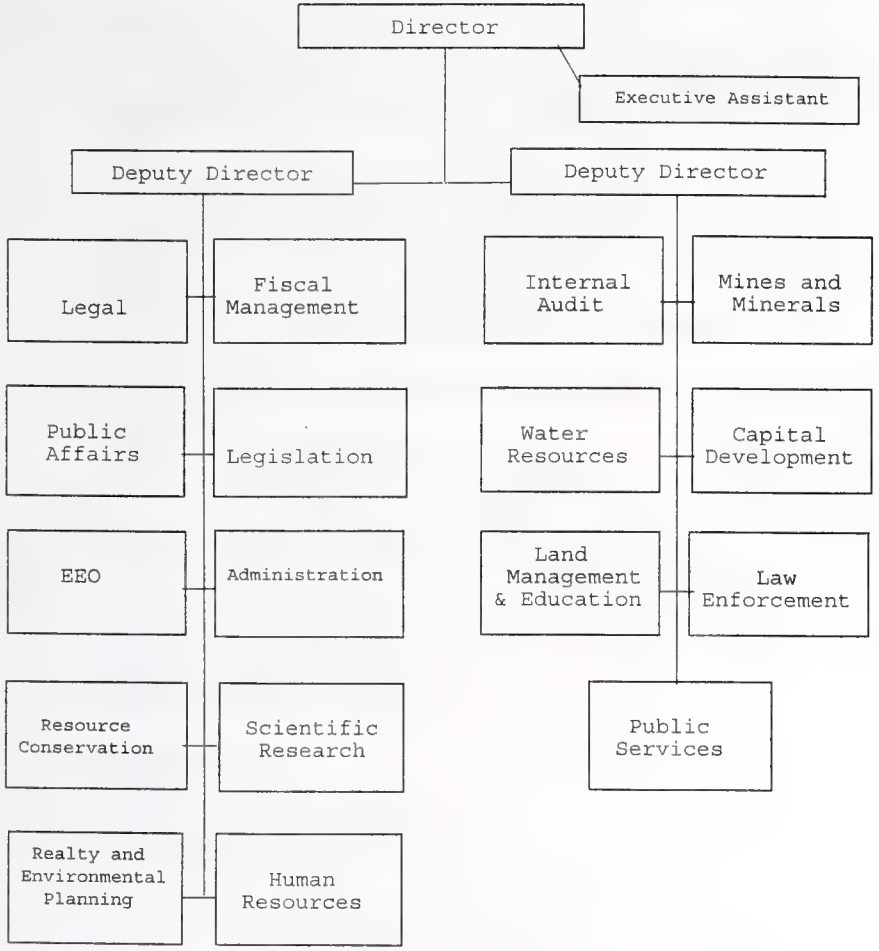

(Source: Amended at 24 Ill. Reg. 2361, effective JAN 25 2000)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 24 Ill. Reg. 2361, effective January 25, 2000

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: PRETREATMENT PROGRAMS

2) Code citation: 35 Ill. Adm. Code 310

3) Section numbers: 310.107 — Adopted action: Amended

4) Statutory authority: 415 ILCS 5/13, 13.3 and 27.

5) Effective date of amendments: January 26, 2000

6) Does this rulemaking contain an automatic repeal date?: No

7) Do these amendments contain incorporations by reference?: Yes. The adopted amendments incorporate 40 CFR 136 by reference.

8) The adopted amendments, a copy of the Board's opinion and order adopted January 20, 2000, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.

9) Notice of proposal published in Illinois Register: November 29, 1999, 23 Ill. Reg. 13991.

10) Has JCAR issued a Statement of Objections to these rules?: No

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

11) Differences between proposal and final version: The following table summarizes the differences between the amendments proposed by the Board in an opinion and order dated November 4, 1999, in docket R00-7, and the amendments adopted by the Board in an opinion and order dated January 20, 2000;

Section Revised	Source(s) of Revision(s)	Revision(s)
Part 310, Source Note	Board	Added space in "at 22 Ill. Reg. 11465"
310.107	JCAR	Added "SUBPART A: GENERAL PROVISIONS" to heading

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

310.107(b)	Board	Did not strike "as amended at 63 Fed. Reg. 50388, September 21, 1998"; added ", as amended at 64 Fed. Reg. 4975, February 2, 1999, as amended at 64 Fed. Reg. 26315, May 14, 1999,"

12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR?: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

During the course of this proceeding, JCAR staff has recommended that the Board non-substantively revise certain segments of text. The Board has incorporated the suggested revisions or explained to JCAR staff why the suggested revision was not possible.

13) Will these amendments replace emergency rules currently in effect?: No

14) Are there any other amendments pending on this Part?: No

15) Summary and purpose of amendments: A more detailed description is contained in the Board's opinion and order of January 20, 2000 in R00-7, which opinion and order is available from the address below.

The R00-7 proceeding updates the Board's wastewater pretreatment rules to correspond with amendments adopted by USEPA that appeared in the Federal Register during the period January 1, 1999, through June 30, 1999.

Specifically, the amendments to Part 310.107 include minor revisions in the February 2, 1999, May 14, 1999, and June 8, 1999 *Federal Register* to methods available for use in testing for the purposes of compliance with the Clean Water Act (CWA) (33 USC 1251 et seq. (1996)) and the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq. (1996)).

16) Information and questions regarding these adopted amendments shall be directed to:

Steven C. Langhoff
Attorney
Illinois Pollution Control Board
600 S. Second Street, Suite 402
Springfield, IL 62704
217-782-2615

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Request copies of the Board's opinion and order of R00-7 from Patricia Jones, at 312-814-3620.

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 310
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

SUBPART B: PRETREATMENT STANDARDS

SUBPART C: REMOVAL CREDITS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: PRETREATMENT PERMITS

SUBPART E: POTW PRETREATMENT PROGRAMS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: REPORTING REQUIREMENTS

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

SUBPART I: UPSETS

AUTHORITY: Implementing and authorized by Sections 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000.

SUBPART A: GENERAL PROVISIONS

Section 310.107 Incorporations by Reference

a) The following publications are incorporated by reference:
   1) The consent decree in NRDC v. Costle, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).
   2) Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401.

b) The following provisions of the Code of Federal Regulations are incorporated by reference:
   40 CFR 2.302 (1998)

   40 CFR 25 (1998)
   40 CFR 122, Appendix D, Tables II and III (1998)
   40 CFR 128.140(b) (1977)
   40 CFR 136 (1998), as amended at 63 Fed. Reg. 50388, September 21, 1998, as amended at 64 Fed. Reg. 4975, February 2, 1999, as amended at 64 Fed. Reg. 26315, May 14, 1999, as amended at 64 Fed. Reg. 30417, June 8, 1999
   40 CFR 403 (1998)
   40 CFR 403, Appendix D (1998)

c) The following federal statutes are incorporated by reference:
   1) Section 1001 of the Criminal Code (18 USC 1001) as of July 1, 1988
   2) Clean Water Act (33 USC 1251 et seq.) as of July 1, 1988
   3) Subtitles C and D of the Resource Conservation and Recovery Act (42 USC 6901 et seq.) as of July 1, 1988

d) This Part incorporates no future editions or amendments.

(Source: Amended at 24 Ill. Reg. 2372, effective January 26, 2000)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: 160.70 — Adopted Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: January 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 17, 1999 (23 Ill. Reg. 11407)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version: The following changes have been made in the text of the proposed amendments to Section 160.70.

In subsection (g)(1)(B)(v), "redetermination" has been changed to "hearing".

In subsection (g)(2)(B), new language has been added after the first occurrence of "responsible relative" to read, ", any joint owner of whom the Department has knowledge and location information,".

In the last sentence of subsection (g)(2)(B), ", joint owner if applicable," has been added after "responsible relative".

In subsection (g)(2)(B)(iv), "and" has been stricken.

In subsection (g)(2)(B)(v), "notice of lien or levy" has been changed to "Notice of Lien or Levy".

Subsection (g)(2)(B)(vi) has been revised to read:

the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

At the end of subsection (g)(2)(D)(iii), "and" has been stricken.

New subsection (g)(2)(D)(iv) has been added to read, "the name and address of any joint owners of the account; and", and previous subsection (g)(2)(D)(iv) has been relabeled as (g)(2)(D)(v).

An additional sentence has been added at the end of new subsection (g)(2)(H) to read, "If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account."

No other changes have been made to the proposed rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? Yes

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
160.5	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.60	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.75	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.95	New Section	October 15, 1999 (23 Ill. Reg. 12573)
160.100	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.110	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.120	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.130	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.132	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.134	Amendment	October 15, 1999 (23 Ill. Reg. 12573)
160.136	Amendment	October 15, 1999 (23 Ill. Reg. 12573)

15) Summary and Purpose of Amendments: These amendments to the Department's administrative rules for child support enforcement provide changes regarding the use of lien and levy on real and personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193) for purposes of child support collection. The data match material will be obtained from the federal government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AEI) pilot project at the invitation of the federal government. These changes to the Department 's rules on child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AEI pilot project.

These amendments, along with companion amendments to the Department's administrative hearing rules at 89 Ill. Adm. Code 104, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the personal property being levied.

The approximate costs for implementation of the necessary system programming changes associated with these changes are expected to be $550,000. Only insignificant staffing expenditures are anticipated because current staff of the Division of Child Support Enforcement will perform the lien and levy processes. The need for an intra-state financial institution transaction fee is under discussion. As a contingency, the Department has budgeted $1.3 million for this purpose in FY2001. Although the child support enforcement program will experience increased collections as a result of these processes, the actual amount of such increased collections cannot be estimated at this time.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(17) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support for Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section
160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13

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Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective JAN 27 2000.

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

a) Definitions
The definitions contained in Section 160.60(a) are incorporated herein by reference.

b) Income Withholding
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

c) Federal and State Income Tax Refunds and Other Payments
1) The Department shall collect past-due support owed by responsible

relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.

2) The Department shall submit past-due support amounts to:
   A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
      i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than $150 which has been in arrears for 3 months or longer; and
      ii) in IV-D non-TANF cases, past-due support owed to or for a minor child in an amount not less than $500.
   B) the Comptroller to intercept State income tax refunds and other State payments as follows:
      i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or $150, whichever is less;
      ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
      iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
   A) the IV-D case name and identification number;
   B) the past-due support amount which will be submitted for intercept;
   C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
      i) a redetermination by the Department or, after such redetermination,
      ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and

   D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
   A) a hearing by the Department within 30 days from the date of mailing of the notice; or
   B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.

6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept of other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within 10 days of the responsible relative's request. The Department shall be bound by the decision of the state with the order.

7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

8) The Department shall notify:
   A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
   B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
   C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
   D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

9) The Department shall:
   A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
   B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income

tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) above and shall promptly apply:
   A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and
   B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.

11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
   A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;
   B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

d) Unemployment Insurance Benefits
   1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.
   2) The Department shall take the following action:
      A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
      B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
      C) establish the amount to be deducted by data entry to DES's computer file, which amount shall be the lesser of:
         i) the amount of the income withholding order; or
         ii) fifty percent of the Unemployment Insurance Benefit.
      D) receive amounts deducted direct from DES.
      E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for

posting to the court payment record.
      F) post each collection to the Department's payment record.
      G) apply each collection to the current support obligation, then to past-due obligations.
      H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
   3) The Department of Employment Security shall take the following action:
      A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
      B) pay all amounts deducted direct to the Department.

e) Contempt of Court and Other Legal Proceedings
   1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation, except as set forth in subsection (e)(2) below.
   2) Contempt proceedings shall not be used in the following instances:
      A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
         i) receiving public assistance;
         ii) mentally or physically disabled;
         iii) incarcerated;
         iv) out-of-the-country;
         v) deceased; or
         vi) otherwise situated making such action unproductive.
      B) other legal or administrative remedies are more appropriate under the circumstances.
   3) Contempt and other legal proceedings shall be used to:
      A) establish the amount of past-due support;
      B) obtain a judgment for purposes of:
         i) imposition of a lien against real estate,
         ii) levy upon real estate and personal property, or
         iii) registration in another state;
      C) secure an order for lump sum or periodic payment of the past-due support or judgment;
      D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
      E) obtain full or partial payment of past due support through incarceration;

F) ascertain the responsible relative's source and amount of income or location and value of assets;
G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
H) secure other enforcement relief; and
I) obtain any combination of the above.

4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support

1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].

2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
A) the past-due amount is at least $10,000; and
B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).

4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than $10,000 in excess of any statutory exemption.

g) Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support

1) Liens against real estate

A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
i) the amount of past-due support is at least $10,000; and
ii) the responsible relative has an interest in real estate against which a lien may be claimed.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to ~~served upon~~ the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
i) the name and address of the responsible relative;
ii) a legal description of the real estate to be levied;
iii) the amount of past-due support to be satisfied by the levy;
iv) the fact that a lien is being claimed for past-due child support owned by the responsible relative; and
v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing ~~redetermination~~ by the Department.

C) A written request for hearing ~~redetermination~~ made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).

D) ~~The Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.~~

E) ~~A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination~~

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~~shall stay the Department from taking action against the real property, if action against the real property had been stayed pursuant to subsection (g)(1)(C) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).~~

~~F)~~ The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

E)~~G)~~ The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

F)~~H)~~ The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than $10,000 in excess of any statutory exemption.

2) Liens against personal property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

i) the amount of past-due support is at least $1,000;

ii) the responsible relative has an interest in personal property against which a lien may be claimed; and

iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least $300.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to ~~served upon~~ the responsible relative, any joint owner of whom the Department has knowledge and location information, and either the financial institution in which the account of the responsible relative is located or the sheriff of the county in which the personal property of the responsible relative is located. The notice shall inform the responsible relative, joint owner if applicable, and the financial institution or the sheriff of the following:

i) the name and address of the responsible relative;

ii) a description of the account or personal property to be levied;

iii) the amount of past-due support to be satisfied by the levy;

iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; ~~and~~

v) the right of the responsible relative to prevent levy upon ~~action against~~ the personal property, including accounts, by payment of the past-due support amount in full or by contesting ~~to contest~~ the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and ~~redetermination by the Department.~~

vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.

C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to ~~served upon~~ a financial institution shall:

i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];

ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;

iii) state that the financial institution may charge the responsible relative's account a fee of up to $50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and

iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien.

D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

i) the amount of assets in the responsible relative's

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account;

ii) the amount of the fee to be deducted from the account;

iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution; ~~and~~

iv) the name and address of any joint owners of the account; and

v)~~iv)~~ the amount of assets surrendered and remitted to the Department.

E) A written request for a hearing ~~redetermination~~ made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon ~~taking action against~~ the personal property, although the lien shall remain in effect during the pendency of any ~~protest or~~ appeal taken pursuant to this subsection (g).

F) ~~The Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.~~

G~~)~~ ~~A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the personal property, if action against the personal property had been stayed pursuant to subsection (g)(2)(E) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).~~

H~~)~~ The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.

H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.

I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

J) Information obtained from financial institutions as to the location of personal property, including accounts, of

responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

h) Security, Bond or Other Guarantee of Payment

1) Except as provided in subsections (h)(2) and (3) below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].

2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies

1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be reported;

C) the date past-due support will be reported; and

D) the right to prevent reporting by payment of the past-due

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support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

A) a request for

i) a redetermination, or

ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the

i) advance notice, or

ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of the past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

j) High-Volume Automated Administrative Enforcement in Interstate Cases

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:

A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant

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to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.

5) The Department shall maintain records of:

A) The number of such requests for assistance received by the Department.

B) The number of cases for the which the Department collected support in response to such a request and the actual amount(s) of such support collected.

k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State

1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.

2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:

A) past-due support is owed for a child or for a child and the parent with whom the child is living;

B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;

C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and

D) the responsible relative is not deceased.

3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be submitted for collection;

C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and

D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

4) Factors for a satisfactory repayment plan will include, but are not limited to:

A) the amount of past-due support owed;

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B) the amount to be paid toward the past-due amount;
C) the amount of current child support obligations; and
D) the individual's ability to pay.

5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
A) name;
B) social security number;
C) IV-D identification number; and
D) the past-due support amount.

6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.

7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.

8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.

9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.

10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

11) The Department shall:
A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

l) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports

1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds $5,000:
A) the name, last known address and Social Security Number of the responsible relative; and
B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
A) the IV-D case name and identification number;
B) the past-due support amount which will be certified;
C) the date past-due support will be certified; and
D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
A) a request for
i) a redetermination, or
ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
B) payment in full of the amount of the past-due support stated in the
i) advance notice, or
ii) notice of redetermination or hearing results.

6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

m) Other Remedies
The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 24 Ill. Reg. 2380, effective JAN 27 2000)

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1) Heading of the Part: Hospital Services

2) Code Citation: 89 Ill. Adm. Code 148

3) Section Numbers: 148.120 — Adopted Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: February 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 30, 1999 (23 Ill. Reg. 8586)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version: The following changes have been made in the text of the proposed rulemaking during the public comment period.

In subsection (a)(2), both occurrences of "state" have been changed to "State".

In subsections (c)(2), (f)(1) and (f)(2), "or post marked" has been added after "must be received".

New language has been added at the end of subsection (c)(2)(B), after "overpayments made", to read, "if the percentage change in the DSH payment rate is greater than five percent".

The first sentence of subsection (d) has been revised to read: "Hospitals may apply for DSH status under subsection (a)(2) of this Section by submitting an audited certified financial statement, for the hospital's base fiscal year, ~~,~~ to the ~~The~~ Department of Human Services ~~Mental--Health and--Developmental--Disabilities--must--submit--a-statement,-signed-by-the Director-of-that-agency,-certifying-the-accuracy-of-the-data-submitted-for facilities-operated-by-that-agency~~.

In subsection (f)(1), the beginning of the second sentence has been

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changed to read: "Information required in subsections (a)(2), (c), (d) and (e) of this Section ~~section~~ which is not received or post marked" . . ..

In subsection (j)(4), ", as calculated in accordance with federal upper payment limit requirements" has been deleted and "Federal upper payment limit requirements (42 CFR 447.272) shall be considered when calculating the OBRA'93 adjustments." has been added after the sentence ending "persons without insurance."

Also in subsection (j)(4), "(described in the previous sentence)" has been changed to "(described in this subsection (j)(4)".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
148.295	Amendment	October 15, 1999 (23 Ill. Reg. 12576)
148.296	Amendment	October 15, 1999 (23 Ill. Reg. 12576)
148.298	Amendment	October 15, 1999 (23 Ill. Reg. 12576)

15) Summary and Purpose of Amendments: These amendments to the Department's rules regarding hospital services add technical changes to provide clarifications on disproportionate share hospital (DSH) payment adjustments. The Department makes DSH payment adjustments to hospitals that are deemed as disproportionate share on the basis of criteria relating to Medicaid inpatient utilization, or low income utilization for all patient (Medicaid) services, or recognition as a children's hospital. These proposed changes to Section 148.120 addressing DSH adjustments provide several technical clarifications concerning the methodology for determining DSH adjustment limitations. According to these changes, for DSH purposes, federal upper payment limit requirements at 42 CFR 447.272 will be considered in the calculation of costs associated with providing services to Medicaid clients and persons without insurance. This new language is intended to more clearly describe the Department's procedures and will not result in any methodology changes or expenditure impact.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel (217) 524-0081
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

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The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section

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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18

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Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997,for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400 FEB - 1 2000.

Section 148.120 Disproportionate Share Hospital (DSH) Adjustments

Disproportionate Share Hospital (DSH) adjustments for inpatient services provided prior to October 1, 1993, shall be determined and paid in accordance with the statutes and administrative rules governing the time period when the services were rendered. The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 1993, and each October 1, thereafter unless otherwise noted.

a) Qualified Disproportionate Share Hospitals (DSH). For inpatient services provided on or after October 1, 1993, the Department shall make adjustment payments to hospitals which are deemed as

disproportionate share by the Department. A hospital may qualify for a DSH adjustment in one of the following ways:

1) The hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, is at least one half standard deviation above the mean Medicaid utilization rate, as defined in subsection (k)(3) of this Section.

2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance), Aid to the Medically Indigent (AMI) and/or any local or State ~~state~~ government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for GA and AMI inpatient hospital services, and/or any local or State ~~state~~ government-funded care) must be added.

3) Illinois hospitals that, on July 1, 1991, had a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, that was at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and which were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5, 1989).

4) Illinois hospitals that:

A) Have a Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, which is at least the mean Medicaid inpatient utilization rate, as defined in subsection (k)(3) of this Section, and

B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(6) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (k)(4) of this Section.

5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3).

b) In addition, to be deemed a DSH hospital, a hospital must provide the Department, in writing, with the names of at least 2 obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age; or does not offer

nonemergency obstetric services as of December 22, 1987. Hospitals that do not offer nonemergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.

c) In making the determination described in subsections (a)(1) and (a)(4)(A) above, the Department shall utilize:

1) The hospital's final audited cost report for the hospital's base fiscal year. Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from final audited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation.

2) In the absence of a final audited cost report for the hospital's base fiscal year, the Department shall utilize the hospital's unaudited cost report for the hospital's base fiscal year. Due to the unaudited nature of this information, hospitals shall have the opportunity to submit a corrected cost report for the determination described in subsections (a)(1) and (a)(4)(A) above. Submittal of a corrected cost report in support of subsections (a)(1) and (a)(4)(A) above must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such corrected cost report for the determination of DSH qualification. Corrected cost reports which are not received in compliance with these time limitations will not be considered for the determination of the hospital's Medicaid inpatient utilization rate as described in subsection (k)(5) of this Section.

A) Hospital's Medicaid inpatient utilization rates, as defined in subsection (k)(5) of this Section, which have been derived from unaudited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation. Pursuant to subsection (c)(2) above, hospitals shall have the opportunity to submit corrected cost report information prior to the Department's final DSH determination.

B) In the event a subsequent final audited cost report reflects a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is lower than the Medicaid inpatient utilization rate derived from the unaudited cost report utilized for the DSH determination, the Department shall recalculate the Medicaid inpatient utilization rate based upon the final audited cost report, and recoup any overpayments made if the percentage change in the DSH payment rate is greater than five percent.

3) Certain types of inpatient days of care provided to Title XIX recipients are not available from the cost report, i.e., Medicare/Medicaid crossover claims, out-of-state Title XIX

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Medicaid utilization levels, Medicaid Health Maintenance Organization (HMO) days, hospital residing long term care days, and Medicaid days for alcohol and substance abuse rehabilitative care under category of service 35. To obtain Medicaid utilization levels in these instances, the Department shall utilize:

A) Medicare/Medicaid Crossover Claims.

i) For DSH determination years on or after October 1, 1996, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year. Provider logs as described in the following subsection (c)(3)(A)(ii) will not be used in the determination process for DSH determination years on or after October 1, 1996.

ii) For DSH determination years prior to October 1, 1996, hospitals may submit additional information to document Medicare/Medicaid crossover days that were not billed to the Department due to a determination that the Department had no liability for deductible or coinsurance amounts. That information must be submitted in log form. The log must include a patient account number or medical record number, patient name, Medicaid recipient identification number, Medicare identification number, date of admission, date of discharge, the number of covered days, and the total number of Medicare/Medicaid crossover days. That log must include all Medicare/Medicaid crossover days billed to the Department and all Medicare/Medicaid crossover days which were not billed to the Department for services provided during the hospital's base fiscal year. If a hospital does not submit a log of Medicare/Medicaid crossover days that meets the above requirements, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for the hospital's applicable base fiscal year.

B) Out-of-state Title XIX Utilization Levels. Hospital statements and verification reports from other states will be required to verify out-of-state Medicaid recipient utilization levels. The information submitted must include only those days of care provided to out-of-state Medicaid recipients during the hospital's base fiscal year.

C) HMO days. The Department will utilize the Department's HMO claims data available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided to recipients enrolled in an HMO.

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D) Hospital Residing Long Term Care Days. The Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of hospital residing long term care days provided to recipients.

E) Alcohol and Substance Abuse Days. The Department will utilize its paid claims data under category of service 35 available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided for alcohol and substance abuse rehabilitative care.

d) Hospitals may apply for DSH status under subsection (a)(2) of this Section by submitting an audited certified financial statement, for the hospital's base fiscal year, ~~,~~ to the ~~The~~ Department of Human Services ~~must--submit--a--statement,--signed--by-the-Director-of-that agency,-certifying-the-accuracy-of-the-data-submitted--for--facilities operated--by--that--agency~~. The statements must contain the following breakdown of information prior to submittal to the Department for consideration:

1) Total hospital net revenue for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

2) Total payments received directly from State and local governments for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.

3) Total gross inpatient hospital charges for charity care (this must not include contractual allowances, bad debt or discounts, except contractual allowances and discounts for Family and Children Assistance, formerly known as General Assistance, and AMI patients), for the hospital's base fiscal year.

4) Total amount of the hospital's gross charges for inpatient hospital services for the hospital's base fiscal year.

e) With the exception of cost-reporting children's hospitals in contiguous states that provide 100 or more inpatient days of care to Illinois program participants, only those cost-reporting hospitals located in states contiguous to Illinois that qualify for DSH in the state in which they are located based upon the Federal definition of a DSH hospital, as defined in Section 1923(b)(1) of the Social Security Act, may qualify for DSH hospital adjustments under this Section. For purposes of determining the Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section and as required in Section 1923(b)(1) of the Social Security Act, out-of-state hospitals will be measured in relationship to one standard deviation above the mean Medicaid inpatient utilization rate in their state. Out-of-state hospitals that do not qualify by the Medicaid inpatient utilization rate from their state may submit an audited certified financial statement as describe in subsection (d) above. Payments to

out-of-state hospitals will be allocated using the same method as described in subsection (g) of this Section.

f) Time Limitation Requirements for Additional Information.

1) The information required in subsections (a)(2), (c), (d) and (e) of this Section must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such information for the determination of DSH qualification. Information required in subsections (a)(2), (c), (d) and (e) of this Section which is not received or post marked in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

2) The information required in subsection (b) of this Section must be received or post marked within 30 calendar days after receipt of notification from the Department that the information must be submitted. Information required in this Section which is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

g) Inpatient Payment Adjustments to DSH Hospitals. The adjustment payments required by subsection (a) above shall be calculated annually as follows:

1) Five Million Dollar Fund Adjustment for hospitals defined in Section 148.25(b)(1).

A) Hospitals qualifying as DSH hospitals under subsection (a)(1) of this Section that have a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, as described in subsection (k)(3) of this Section, and hospitals qualifying as DSH hospitals under subsection (a)(2) of this Section will receive an add-on payment to their inpatient rate.

B) The distribution method for the add-on payment described in subsection (g)(1)(A) above is based upon a fund of $5 million. All hospitals qualifying under subsection (g)(1)(A) above will receive a $5 per day add-on to their current rate. The total cost of this adjustment is calculated by multiplying each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) by $5. The total dollar amount of this calculation is then subtracted from the $5 million fund.

C) The remaining fund balance is then distributed to the hospitals that qualify under subsection (a)(1) that have a Medicaid inpatient utilization rate, as described in subsection (k)(5) of this Section, which is at least one standard deviation above the mean Medicaid inpatient utilization rate, above in proportion to the percentage by which the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the State's Medicaid inpatient utilization rate, as described in subsection (k)(3) of this Section. This is done by finding the ratio of each hospital's percent Medicaid utilization to the State's mean plus one standard deviation percent Medicaid value. These ratios are then summed and each hospital's proportion of the total is calculated. These proportional values are then multiplied by each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization). These weighted values are summed and each hospital's proportion of the summed weighted value is calculated. Each individual hospital's proportional value is then multiplied against the $5 million pool of money available after the $5 per day base add-on has been subtracted.

D) The total dollar amount calculated for each qualifying hospital under subsection (g)(1)(C) above, plus the initial $5 per day add-on amount calculated for each qualifying hospital under subsection (g)(1)(B) above, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at per day add-on value. Hospitals qualifying under subsection (a)(2) of this Section, will receive the minimum adjustment of $5 per inpatient day. The adjustments calculated under this subsection are subject to the limitations described in subsection (j) of this Section.

2) Medicaid Percentage Adjustment for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Section 148.25(b)(1)(A).

A) In addition to the adjustment methodology described in subsection (g)(1) above, all DSH hospitals described in subsections (a)(1), (2), (3), (4), and (5) of this Section shall receive a payment adjustment which shall be calculated annually as follows:

B) The payment adjustment shall be calculated based upon the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) of this Section, and subject to subsections (h) and (i) below, as follows:

i) Hospitals with a Medicaid inpatient utilization rate below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $25;

ii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient

utilization rate shall receive a payment adjustment of $25 plus $1 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds the mean Medicaid inpatient utilization rate;

iii) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $40 plus $7 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds one standard deviation above the mean Medicaid inpatient utilization rate; and

iv) Hospitals with a Medicaid inpatient utilization rate that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of $90 plus $2 for each one percent that the hospital's Medicaid inpatient utilization rate exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.

C) For a hospital organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), the amount calculated pursuant to subsection (g)(2)(B) above shall be increased by $60 per day.

D) The Medicaid percentage adjustment payment, calculated in accordance with this subsection (g)(2), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed $155 per day for a children's hospital, as described in subsection (a)(5) of this Section, and shall not exceed $215 per day for all other hospitals.

E) The amount calculated pursuant to subsections (g)(2)(B) through (g)(2)(D) above shall be adjusted on October 1, 1993, and annually thereafter by a percentage equal to the lesser of:

i) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or

ii) The percentage increase in the statewide average hospital payment rate, as described in subsection (k)(8) of this Section, over the previous year's statewide average hospital payment rate.

F) The amount calculated pursuant to subsection (g)(1) above for hospitals described in Section 148.25(b)(1)(A) shall be

no less than the DSH rates in effect on June 1, 1992, except that this minimum shall be adjusted on the first day of July of each year by the annual percentage change in the per diem cost of inpatient hospital services as reported on the two most recent annual Medicaid cost reports. The per diem cost of inpatient hospital services is calculated by dividing the total allowable Medicaid costs by the total allowable Medicaid days.

G) The amount calculated pursuant to subsections (g)(1) and (g)(2)(B) through (g)(2)(E) above, as adjusted pursuant to subsections (h) and (i) below, shall be the inpatient payment adjustment in dollars for the applicable DSH determination year, subject to the limitations described in subsections (g)(2)(D) and (j) of this Section, and the adjustment described in subsection (g)(2)(F) above. The adjustments calculated under subsections (g)(1) and (g)(2)(B) through (g)(2)(F) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.

3) Department of Human Services (DHS) State-Operated Facility Adjustment for hospitals defined in Section 148.25(b)(6). Department of Human Services State-operated facilities qualifying under subsection (a)(2) of this Section shall receive an adjustment for inpatient services provided on or after March 1, 1995. The amount of that payment shall be calculated as follows:

A) The amount of the adjustment is based on a State DSH Pool. The State DSH Pool amount shall be calculated by subtracting the estimated DSH payment adjustments made under subsection (g)(1) through (g)(2) above and Section 148.170(f)(2) from the aggregate DSH payment adjustment set by the Health Care Financing Administration (HCFA) in accordance with Public Law 102-234.

B) The State DSH Pool amount is then allocated to hospitals defined in Section 148.25(b)(6) that qualify for DSH adjustments by multiplying the State DSH Pool amount by each hospital's ratio of Medicaid inpatient utilization (adjusted based upon historical utilization and projected increases in utilization) to the sum of all qualifying hospitals' Medicaid inpatient utilization.

C) The adjustment calculated in (g)(3)(B) above shall meet the limitation described in subsection (j)(4) below.

D) The adjustment calculated pursuant to subsection (g)(3)(B) above, for each hospital defined in Section 148.25(b)(6) that qualifies for DSH adjustments, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at a per day adjustment. This amount is subject to the limitations described in subsection (j) of

this Section. The adjustment described in this subsection shall be paid on a per diem basis and shall be applied to each Medicaid covered day of care provided.

h) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in subsection (a)(5) of this Section, the payment adjustment calculated under subsection (g)(2) above shall be multiplied by 2.0.

i) Inpatient Adjustor for Hospitals Organized Under the University of Illinois Hospital Act. For a hospital and/or hospitals organized under the University of Illinois Hospital Act, as defined in Section 148.25(b)(1)(B), the payment adjustment calculated under subsection (g)(2) above shall be multiplied by 1.50.

j) DSH Adjustment Limitations.

1) Hospitals that qualify for DSH adjustments under this Section shall not be eligible for the total DSH adjustment if, during the DSH determination year, the hospital discontinues the provision of non-emergency obstetrical care (the provisions of this subsection shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered nonemergency obstetric services as of December 22, 1987). In this instance, the adjustments calculated under subsections (g)(1) and (g)(2) shall cease effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

2) Inpatient Payment Adjustments based upon DSH Determination Reviews. Appeals based upon a hospital's ineligibility for DSH payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for DSH payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the DSH status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of their eligibility for DSH payment adjustments based upon the requirements of this Section.

3) DSH Payment Adjustment. In accordance with Public Law 102-234, if the aggregate DSH payment adjustments calculated under this Section do not meet the State's final DSH Allotment as determined by the Health Care Financing Administration (HCFA), DSH payment adjustments calculated under this Section shall be adjusted to meet the State DSH Allotment. This adjustment shall first be applied to DSH payments made under subsection (g)(3) above. If further adjustments are necessary, then DSH payments made under subsection (g)(2) above shall be adjusted, with the DSH payments under subsection (g)(1) of this Section being adjusted last.

4) Omnibus Budget Reconciliation Act of 1993 (OBRA '93) Adjustments. In accordance with Public Law 103-66, adjustments to individual hospitals' disproportionate share payments shall be made if the sum of estimated Medicaid payments (inpatient, outpatient, and

disproportionate share) made to a hospital exceed the costs of providing services to Medicaid clients and persons without insurance. Federal upper payment limit requirements (42 CFR 447.272) shall be considered when calculating the OBRA '93 adjustments. The adjustments shall reduce disproportionate share spending until the costs and spending (described in this subsection (j)(4) ~~the previous sentence~~) are equal or until the disproportionate share payments are reduced to zero. In this calculation, persons without insurance costs do not include contractual allowances. Hospitals qualifying for DSH payment adjustments must submit the information required in Section 148.150.

5) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for DSH payment adjustments under this Section shall not be eligible for DSH payment adjustments if the hospital's Medicaid inpatient utilization rate, as defined in subsection (k)(5) below, is less than one percent.

k) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of the inpatient payment adjustments are as follows:

1) "Base fiscal year" means, for example, the hospital's fiscal year ending in 1991 for the October 1, 1993 DSH determination year, the hospital's fiscal year ending in 1992 for the October 1, 1994, DSH determination year, etc.

2) "DSH determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.

3) "Mean Medicaid inpatient utilization rate" means a fraction, the numerator of which is the total number of inpatient days provided in a given 12-month period by all Medicaid-participating Illinois hospitals to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total number of inpatient days provided by those same hospitals. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) and Aid to the Medically Indigent (AMI) days but does include the types of days described in subsection (c)(3) of this Section. In this subsection (k)(3), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

4) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) below, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days,

were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (k)(9) below, for all such hospitals. That information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

5) "Medicaid inpatient utilization rate" means a fraction, the numerator of which is the number of a hospital's inpatient days provided in a given 12-month period to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a et seq.) and the denominator of which is the total number of the hospital's inpatient days in that same period. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) and Aid to the Medically Indigent (AMI) days but does include the types of days described in subsection (c)(3) of this Section. In this subsection (k)(5), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

6) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (k)(7) below, provided by a Medicaid-partcipating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (k)(9) below provided by such hospital. This information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

7) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through

676.9 with a 5th digit of 1 or 2; or V27 through V27.9; or V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

8) "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).

9) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (k)(4) and (k)(6) above, means hospital inpatient days, excluding days for normal newborns, which were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.

10) "Medicaid obstetrical inpatient utilization rate base year" means, for example, fiscal year 1992 for the October 1, 1993, DSH determination year; fiscal year 1993 for the October 1, 1994, DSH determination year, etc.

(Source: Amended at 24 Ill. Reg. 2400, effective FEB - 1 2000)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3) Section Numbers: Adopted Action:
104.100 Amendment
104.102 Amendment
104.103 Amendment
104.110 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: January 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 17, 1999 (23 Ill. Reg. 11410)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences Between Proposal and Final Version:

The following changes have been made in the text of the proposed rulemaking.

Section 104.100:

The cross-reference to "Section 104.106" has been changed to "Section 104.110".

Section 104.110:

In subsection (a), "below" has been changed to "in this Section".

In subsection (d), "petition's" has been changed to "petitions".

In subsection (e), the comma after "If neither the joint owner" has been deleted.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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NOTICE OF ADOPTED AMENDMENTS

13) Will these amendments replace emergency amendments currently in effect? Yes

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments:

These amendments to the Department's rules on administrative hearings provide changes regarding the use of lien and levy on personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193) for purposes of child support collection. Data match material will be obtained from the federal government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AEI) pilot project at the invitation of the federal government. These amendments to the Department 's rules on administrative hearings and child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AEI pilot project.

These amendments, along with companion amendments to the Department's rules on child support enforcement at 89 Ill. Adm. Code 160, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the property being levied.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 104
PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEAL

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

SUBPART C: MEDICAL VENDOR HEARINGS

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SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST

DEPARTMENT OF PUBLIC AID

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SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section
104.300 Authority
104.302 Definitions
104.304 Department Actions Nursing Homes Facilities
104.310 Certification
104.320 Joint Administrative Hearing
104.330 Facilities Certified Under Both Medicare and Medicaid

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

104.400 Suspected Intentional Violation of the Program
104.410 Advance Notice of Administrative Disqualification Hearing
104.420 Postponement of Hearing
104.430 Administrative Disqualification Hearing Procedures
104.440 Failure to Appear
104.450 Participation While Awaiting a Hearing
104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing
104.470 Administrative Disqualification Hearing Decision and Notice of Decision
104.480 Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section
104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989;

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amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective JAN 27 2000.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.100 Support Order, Responsible Relative and Joint Payee Petitions

Sections 104.101 through 104.104 apply to all petitions of responsible relatives and clients for release from or modification of Administrative Support Orders and to all petitions of responsible relatives to contest determinations of the amount of past-due support or of the share of jointly-owned funds (see 89 Ill. Adm. Code 160.70), or to contest withholding, or to modify, suspend, terminate, or correct terms contained in administrative income withholding notices (see 89 Ill. Adm. Code 160.60(d)(6)); except that Section 104.110 shall apply to all petitions of joint owners of personal property and accounts held in financial institutions where the personal property and accounts are subject to levy under 89 Ill. Adm. Code 160.70(g)(2).

(Source: Amended at 24 Ill. Reg. 2418, effective JAN 27 2000)

Section 104.102 Conduct of Administrative Support Hearings

a) Hearing De Novo
   1) The hearing shall be de novo and the Department's determination of liability or non-liability pursuant thereto shall be independent of the prior determination of liability.
   2) In Title IV-D cases, the hearing shall only consider such matters

as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.

b) Rules Governing Hearing

1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the responsible relative or Title IV-D client who petitions and except as set out in subsection (b)(2) below.

2) In Title IV-D cases, the following additional rules shall govern:

A) A request for appeal must be filed with the regional or central office of the Bureau of Child Support Enforcement at the address furnished in the administrative support order.

B) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.

C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D clients and responsible relatives.

D) In the event of cross appeals, if the client is an Illinois resident, the hearing shall be held in the client's county of residence. Otherwise, if the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2], present his case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his own expense.

E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)

F) In addition to the appellant, the Division ~~Bureau~~ of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (for example, illness or other circumstance which prevent a party from continuing in the normal course of the hearing).

G) A decision on appeal shall be given to the IV-D client and responsible relative within 60 days after the Department's receipt of the appeal unless additional time is required for

a proper decision due to the complexity or unavailability of relevant evidence, and the IV-D client and responsible relative will be notified of the length of the extension.

c) A hearing to vacate registration or to modify the administrative income withholding notice of the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the stay order is vacated.

(Source: Amended at 24 Ill. Reg. 2418, effective JAN 27 2000)

Section 104.103 Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments ~~Funds~~

a) Hearings on petitions to contest the determination of the amount of past-due support or of the share of jointly-owned federal or State income tax refunds or other joint federal or State payments ~~funds~~ shall be governed by Section 104.102, except that subsections (a) and (c) shall not apply, and the following terms as used therein are redefined:

1) "administrative support order" shall mean determinations of past-due support or of share of jointly-owned federal or State income tax refunds or other joint federal or State payments ~~funds~~.

2) "liability" shall mean past-due support or share of jointly-owned federal or State income tax refunds or other joint federal or State payments ~~funds~~.

3) "responsible relative" shall also mean joint payee.

b) Upon receipt of a hearing request from a responsible relative or joint payee concerning:

1) an advance notice of intercept, the Department shall, if the request concerns a joint federal or State income tax refund or other joint federal or State ~~state~~ payment, inform the responsible relative or joint payee of the steps necessary for the joint payee to secure his proper share of the refund or payment, as stated in the advance notice.

2) an amount already intercepted, the Department shall refer the responsible relative or joint payee to the Internal Revenue Service, if the request concerns a joint federal income tax

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refund.

c) Within 45 days after ~~of~~ the receipt of a notification from a state intercepting a federal income tax refund that the responsible relative has requested an administrative review in this State, the Department shall complete the procedures set forth in subsection (a) above. The Department shall notify the submitting state promptly of the decision and notify the Department of Health and Human Services of the deletion of the amount referred for intercept.

(Source: Amended JAN ' Ill. Reg. 2418 , effective

Section 104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

a) Hearings on joint owner's petition to contest the lien or levy of jointly-owned personal property, including accounts held in financial institutions, shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the joint owner who petitions, and except as set forth in this Section.

b) A joint owner's petition to contest lien or levy of jointly-owned personal property must be filed with the regional or central office of the Division of Child Support Enforcement at the address shown in the notice of lien or levy.

c) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.

d) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues involving joint owner petitions to contest lien or levy of jointly-owned personal property.

e) If the joint owner is an Illinois resident, the hearing shall be conducted in the joint owner's county of residence. If the joint owner is not an Illinois resident, but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the joint owner nor the client is an Illinois resident, the hearing shall be conducted in the responsible relative's county of residence. If the joint owner, the client and the responsible relative are not residents of Illinois, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the joint owner, the client, the responsible relative and the Division of Child Support Enforcement. If a party is outside the State, he or she may, in a manner consistent with Section 11-8.2 of the Public Aid Code, present his or her case through depositions and witnesses. In addition, a party may request to participate in a hearing by telephone, at his or her own expense.

f) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section

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104.23 for admission of other evidence.)

g) In addition to the joint owner, the Division of Child Support Enforcement, the client or the responsible relative may request and receive a continuance for good cause shown (for example, illness or other circumstance that prevents a party from continuing in the normal course of the hearing).

h) The burden is on the joint owner to prove his or her share of the personal property or account through production of documentary evidence. Documentary evidence of the joint owner's share may include, but shall not be limited to, the following:

1) bank statements;
2) bank signature cards;
3) canceled checks or facsimiles of checks deposited into or drawn on the account;
4) account numbers of accounts being held in financial institutions;
5) title to the personal property;
6) loan repayment coupons or other loan documents;
7) receipt from purchase of the personal property; and
8) payroll records.

i) A hearing decision shall be given to the joint owner, the IV-D client and the responsible relative within 60 days after the Department's receipt of the request for hearing unless additional time is required for a proper decision due to the complexity or unavailability of relevant evidence, and the joint owner, the IV-D client and the responsible relative will be notified of the length of the extension.

(Source: Added at 24 Ill. Reg. 2418 , effective JAN 27 2000)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Property Tax Code

2) Code Citation: 86 Ill. Adm. Code 110

3)

Section Numbers:	Adopted Action:
110.155	Amendment
Illustration A	New

4) Statutory Authority: 35 ILCS 200

5) Effective Date of Amendments: January 25, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 20, 1999, 23 Ill. Reg. 9752

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The Department of Revenue has previously promulgated a rule that provides guidance to parties interested in the educational requirements for Board of Review members in non-commission counties under Section 110.155. Public Act 90-552, which took effect on January 1, 1999, amended Article 6 of the Property Tax Code. It imposed new educational requirements for Board of Review members in commission counties. This amendment is necessary to update Section 110.155.

16) Information and questions regarding this adopted amendment shall be directed to:

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Jerry Lanter
Counsel for Property Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 110
PROPERTY TAX CODE

Section
110.101 Railroads
110.105 Non-carrier Real Estate of Railroads
110.110 Procedures for Assessment of Pollution Control Facilities and Low Sulphur Dioxide Emission Coal Fueled Devices
110.115 Non-Homestead Exemption Proceedings
110.120 Oil Right Lessees and Producers
110.125 Reports to be Filed with the Department
110.130 Hearings and Records of Chief County Assessment Officers
110.135 Review of Assessments - Counties of 3,000,000 or More
110.140 Board of Review Procedures and Records - Counties of Less than 3,000,000
110.141 Farmland Factor Review Procedures (Repealed)
110.145 Practice and Procedure for Hearings on Property Tax Matters Before the Illinois Department of Revenue
110.150 Records Reproduction
110.155 Course and Examination Requirements for Board of Review Members ~~Appointment-or-Election-of-Board-of-Review-Members-After-Examination~~
110.160 Multi-township Assessment Districts
110.162 Township and Multi-township Assessor Qualifications
110.165 Farmland Assessment Review Procedures
110.170 Assessors' Bonus
110.175 Equalization by Chief County Assessment Officers in Counties with Fewer Than 3,000,000 Inhabitants
110.180 Supervisor of Assessments Examination
110.190 Property Tax Extension Limitation
110.192 Property Tax Extention Limitation Law Notification and Determination Requirements After Referendum Under Section 18-213 or 18-214 of the Property Tax Code

ILLUSTRATION A State of Illinois Board of Review Course and Exam Requirements

AUTHORITY: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 39b35 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b35].

SOURCE: Adopted June 1, 1940; amended at 5 Ill. Reg. 2999, effective March 11, 1981; amended at 5 Ill. Reg. 5888, effective May 26, 1981; amended at 6 Ill. Reg. 9707, effective July 27, 1982; amended at 6 Ill. Reg. 14564, effective November 5, 1982; codified at 7 Ill. Reg. 5886; amended at 8 Ill. Reg. 24285, effective December 5, 1984; amended at 9 Ill. Reg. 159, effective December 26,

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1984; amended at 9 Ill. Reg. 12022, effective July 24, 1985; amended at 10 Ill. Reg. 11284, effective June 16, 1986; amended at 10 Ill. Reg. 15125, effective September 2, 1986; amended at 11 Ill. Reg. 19675, effective November 23, 1987; amended at 11 Ill. Reg. 20972, effective December 11, 1987; amended at 12 Ill. Reg. 14346, effective August 29, 1988; amended at 13 Ill. Reg. 6803, effective April 12, 1989; amended at 13 Ill. Reg. 7469, effective May 2, 1989; amended at 15 Ill. Reg. 3522, effective February 21, 1991; emergency rule added at 15 Ill. Reg. 14297, effective October 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 2624, effective February 4, 1992; emergency amendment at 17 Ill. Reg. 22584, effective January 1, 1994, for a maximum of 150 days; emergency expired May 30, 1994; amended at 18 Ill. Reg. 15618, effective October 11, 1994; emergency amendment at 19 Ill. Reg. 2476, effective February 17, 1995, for a maximum of 150 days; emergency expired July 16, 1995; emergency amendment at 19 Ill. Reg. 3555, effective March 1, 1995, for a maximum of 150 days; emergency expired July 28, 1995; emergency amendment at 20 Ill. Reg. 7540, effective May 21, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13611, effective October 3, 1996; amended at 20 Ill. Reg. 13993, effective October 3, 1996; emergency amendment at 20 Ill. Reg. 15613, effective November 22, 1996, for a maximum of 150 days; emergency expired on April 21, 1997; amended at 21 Ill. Reg. 6921, effective May 22, 1997; emergency amendment at 23 Ill. Reg. 9909, effective August 2, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14759, effective December 8, 1999; amended at 24 Ill. Reg. 2428, effective JAN 25 2000.

Section 110.155 Course and Examination Requirements for Board of Review Members ~~Appointment-or-Election-of-Board-of-Review-Members-After-Examination~~

a) Scope
   1) This Section applies to all counties except St. Clair County, which elects a Board of Review under Section 6-35 of the Property Tax Code [35 ILCS 200/6-35] and has no course or examination requirements.
   2) In order to be eligible to serve as a Board of Review member, interested persons must fulfill the appropriate course and examination requirements specified in subsections (b) and (d) of this Section based on the eligibility requirements set forth in Article 6 of the Property Tax Code [35 ILCS 200/Art. 6] (see Public Act 90-552, effective January 1, 1999).

b) Course and Examination Requirements (see Illustration A)
   1) Course Requirements in Non-Commission Counties with Fewer Than 100,000 Inhabitants: Within one year after taking office, each member of the Board of Review must successfully complete a basic course in assessment practice approved by the Department as required by Section 6-10 of the Property Tax Code [35 ILCS 200/6-10]. Successful completion of the course includes passing the examination that is given as part of the course.
   2) Course Requirements in Cook County: Within one year after taking office, each member of the Board of Review, must successfully

complete a basic course in assessment practice approved by the Department as required by Section 6-10 of the Property Tax Code [35 ILCS 200/6-10]. Successful completion of the course includes passing the examination that is given as part of the course.

3) Course and Examination Requirements in Non-Commission Counties with Fewer than 100,000 Inhabitants in which the County Board by Resolution Has Required Board Members to Take an Examination in Addition to Taking the Course: Prior to taking office, each member of the Board of Review must successfully complete a basic course in assessment practice approved by the Department as required by Section 6-10 of the Property Tax Code. Successful completion of the course includes passing the examination that is given as part of the course. In addition, prior to taking office, each member of the Board of Review must pass the examination prepared and administered by the Department to determine his or her competence to hold office as required by county board resolution under Section 6-10 of the Property Tax Code.

4) Examination Requirements in Non-Commission Counties with 100,000 to 3,000,000 Inhabitants: Prior to taking office, each member of the Board of Review must pass the examination prepared and administered by the Department to determine his or her competence to hold office as required by Section 6-10 of the Property Tax Code.

5) Examination Requirements in Commission Counties: Beginning January 1, 1999, for Boards of Review convening for the 1999 assessment year and thereafter, all County Commissioners, prior to serving as the Board of Review, must pass the examination prepared and administered by the Department to determine their competence to hold office as required by Sections 6-30 and 6-32. If the County Commissioners do not serve as the Board of Review, but instead appoint three Board of Review members, each appointee, prior to serving as the Board of Review, must pass the examination prepared and administered by the Department to determine his or her competence to hold office as required by Sections 6-30 and 6-32 of the Property Tax Code.

c) Course Grades

1) A person taking the examination for the course will be presented with a grade notification letter from the Department showing his or her numerical score.

2) A numerical score of 70% or more correct is a passing grade for the course.

d) Examination Requirements

Except as otherwise provided in subsection (k) of this Section, in order to be eligible to serve as a Board of Review member, interested persons must fulfill the appropriate examination requirements specified in subsections (b)(4), (5) and (6).

e) Examination Requests by Counties

1) Examination Requests in Non-Commission Counties that Appoint a Board of Review: If the presiding officer of the County Board does not intend to reappoint a member of the Board of Review or reappoint a person whose eligibility is established based on continuous service under subsection (k) or appoint a person from the list of people who have passed the examination maintained by the Department, then the presiding officer of the County Board must make a written request for the Department to give the examination in that county.

2) Examination Requests in Non-Commission Counties that Elect a Board of Review: If a person not currently on the list of people who have passed the examination maintained by the Department files nomination papers to run for election to the Board of Review, unless his or her eligibility is otherwise established based on continuous service under subsection (k), then the County Clerk must make a written request for the Department to give the examination in that county. The request for the examination must be made no later than 5 calendar days after the deadline for filing nomination papers for election.

3) Examination Requests in Commission Counties: If the County Commissioners intend to serve as the Board of Review and any County Commissioner is not eligible because that Commissioner is not on the list of people who have passed the examination maintained by the Department and that Commissioner is not eligible based on continuous service under subsection (k), or if the County Commissioners do not intend to reappoint a person whose eligibility is established based on continuous service under subsection (k) or appoint a person from the list of people who have passed the examination maintained by the Department, then the chairperson of the County Board of Commissioners must make a written request for the Department to give the examination in that county.

4) The Department will administer the examination in a county within 30 calendar days after receipt of a written request made in a manner consistent with the requirements of this subsection (e) or by such later date as is mutually agreed to by the Department and the public official who requested the examination. However, the examination is subject to cancellation by the Department in accordance with subsections (f)(3) and (h)(3).

f) Publication Procedures for County-Requested Examinations

1) The public official who requests the examination be given must cause a notice prescribed by the Department to be published, at county expense, in a local newspaper of general circulation in the county at least 14 calendar days before the examination is scheduled.

2) The published notice must set forth:

A) the date, time, place and purpose of the examination;

B) the name, location and office hours of a public official in

the county to contact for an application form and study materials and for making arrangements to accommodate the needs of a handicapped individual;

C) the name, location, and office hours of a public official in the county accepting completed application forms; and

D) the registration deadline for the examination.

3) Proof of publication must be submitted to the Department by 10:00 A.M. of the State business day before the examination is scheduled. Proof of publication consists of a copy of the published notice and a certification from the newspaper showing the date of publication. If proof of publication is not submitted or is submitted in an untimely manner, the Department will cancel the scheduled examination.

g) Location of Examinations

1) The examination will be scheduled by the Department at a handicap-accessible location in a county when that county requests an examination in a manner consistent with the requirements of subsections (e) and (f).

2) Locations and examination dates for regional examinations under Section 6-32 of the Property Tax Code [35 ILCS 200/6-32] will be determined by the Department.

h) Examination Registration Procedures for County-Requested Examinations

1) A person may register for and take the examination in any county where it is scheduled to be given by the Department.

2) Interested persons must register for the examination by delivering a completed application form to the public official specified in the published notice by 10:00 A.M. of the State business day before the examination is scheduled.

3) If no person has registered for the examination by 10:00 A.M. of the State business day before the examination is scheduled, the public official who requested the examination must immediately notify the Department by telephone or facsimile. The examination may be cancelled at the discretion of the Department.

4) If the examination is held, the Department will accept application forms until the end of the examination. Any person who arrives late to the examination will be given no additional time in which to register and take the examination beyond the hour specified by the examiner at the beginning of the examination.

5) All persons who register for the examination must specify at least one county for certification of the examination results on the application form.

i) Examination Scores

1) A person taking the examination will be presented with a grade notification letter from the Department showing his or her numerical score.

2) A numerical score of 70% or more correct is a passing grade for the examination.

3) If a person re-takes the examination, the most current examination result supersedes that of any previous examination result.

4) A passing grade will be valid for a three-year period commencing with the day the examination was given. In non-commission counties, if the three-year period has not expired as of the date nominating papers are filed for the office of Board of Review or an appointment is made to the Board of Review, a person will be deemed to have fulfilled the examination requirement even though the three-year period may expire between the date nominating papers are filed or an appointment is made and the date the person takes office as a Board of Review member. In commission counties, if the three-year period has not expired as of the date nominating papers are filed for the office of County Commissioner or an appointment is made to the Board of Review, a person will be deemed to have fulfilled the examination requirement even though the three-year period may expire between the date nominating papers are filed or an appointment is made and the date the Board of Review first convenes for a new tax year.

j) Certification and Maintenance of Examination Results

1) Within 30 days after the examination, the Department will certify the name of each person passing the examination to the County Clerk of any county specified by that person on the application form.

2) A person who has passed the examination may make a written request for certification by the Department of his or her passing examination results to the County Clerk of any county. The Department will make the certifications within 30 days after receiving the written request provided the passing grade is valid at the time of the request.

3) The Department will maintain a statewide list of persons who have passed the examination.

k) Examination Eligibility Based on Continuous Service

1) Notwithstanding the provisions in subsection (i)(4), a person who has been legally appointed or elected or has legally served as a regular Board of Review member in any county for which an examination was required at the time of service is eligible for appointment or election or service in any county for the immediately succeeding term and each consecutive term for that office thereafter, without further examination.

2) A person who has been legally appointed or elected as a regular Board of Review member in any county for which an examination was required at the time of service is also eligible for appointment as an additional member in any non-commission county under Section 6-25 of the Property Tax Code [35 ILCS 200/6-25], without further examination, to hear complaints in an emergency situation during the session of the Board of Review next succeeding the expiration of his or her regular term and during the session of

the Board of Review in each consecutive year thereafter.

3) A person who has been legally appointed as an additional member to hear complaints in an emergency situation in any non-commission county for which an examination was required at the time of service under Section 6-25 of the Property Tax Code [35 ILCS 200/6-25] may be appointed to serve only until final adjournment of the Board of Review then in session. However, he or she may be reappointed as an additional member in the same or another non-commission county without further examination in the next succeeding year and he or she may be appointed or elected as a regular member in any county without further examination for a term beginning in or immediately following the year for which he or she served as an additional member.

a) ~~Examinations~~

~~1) Examinations--in--counties---that---appoint---Board---of---Review members:--Examinations---administered---by---the---Department--to determine-whether-persons-are-eligible-to-serve-on-the--Board--of Review--are-required-in-counties-under-township-organization-that appoint-members-to-the-Board-of-Review-and-either-have-100,000-or more-and-fewer-than-3,000,000--inhabitants--or--have--imposed--an examination--requirement-by-resolution.--If-the-presiding-officer of-the-County-Board-does-not-intend-to-either-reappoint-a--member of--the-Board-of-Review-or-appoint-a-person-from-the-Department's list-of-those-currently-eligible-for-appointment-in-that--county, the--presiding--officer--shall-request-that-the-Department-give-a qualifying-examination.--The-request-for-the-examination-shall-be made-at-least-21-days-before-the-date-for-appointment.~~

~~2) Examinations---in---counties---that---elect---Board---of---Review members:--Examinations--administered---by---the---Department---to determine-whether-a-person-is-eligible-to-be-elected-to-the-Board of---Review--are--required--in--counties--that--have--imposed--an examination-requirement-by--resolution.---If--an--individual--not currently--on--the-Department's-eligibility-list-files-nomination papers-to-run-for-election-to-the-Board--of--Review,--the--County Clerk--shall--request--that--the--Department--give--a--qualifying examination.---The--examination--shall-be-requested-within-5-days after-the-deadline-for-filing-nomination-papers-for-election,-and the-Department-shall-give-the-examination-within--21--days--after such-request.--The-request-for-the-examination-may-be-made-by-the presiding--officer--of--the--County--Board,--and-if-the-presiding officer-has-made-such-a-request,-the-County-Clerk-need-not-do-so.~~

~~3) The-presiding-officer-of-the-County-Board-or-the-County-Clerk-who requests-the-examination-be-given-shall-publish--a--notice--in--a local--newspaper--of--general--circulation-in-the-county-at-least seven-days-before-the-examination-is--given.---The--notice--shall include--the--date,--time,--place-and-purpose-of-the-examination, shall-indicate-that-study-materials-are-available--and--that--the examination---and---facilities---are--accessible--to--handicapped individuals-and-shall-indicate-that-interested-parties-shall-fill out-and-deliver-an-application-to-the-official-who-published--the notice--by--10-A.M.-of-the-business-day-before-the-examination-is scheduled.~~

~~4) If-no-individual-has-registered-to-take--the--examination--by--10 A.M.-of-the-business-day-before-the-examination-is-scheduled,-the presiding-officer-of-the-County-Board-or-the-County-Clerk,-as-the case---may---be,--shall--immediately--telephone--and--inform--the Department,--and--the--examination--may--be--cancelled.---If---an examination--is-held,-the-Department-shall-accept-applications-up to-the-time-of-the-examination.~~

~~b) Names-of-persons-who-pass-the-examination-administered-in--any--county by--the--Department--shall--be--placed-on-an-eligibility-list-for-that county-upon-notification--to--the--county--by--the--Department.---Such persons--shall--remain--on-the-list-in-that-county-and-be-eligible-for election-as-a-member-or-appointment,-either-as-a-regular-member-or--as an--additional--member--appointed--to--hear-complaints-in-an-emergency situation,-for-a-period-of-three-years-from-the-date--the--examination was--taken.---A--person--on--the--eligibility--list--as-of-the-date-an appointment-is-made-or-the-date-a-primary-ballot-is-certified-shall-be considered-as-having-met-the-examination-requirement-even--though--the three-year--period--may--expire-between-the-date-of-the-appointment-or date-the-primary-ballot-is-certified-and-the-date-the--person--assumes office.~~

~~c) A--person-who-has-passed-an-examination-administered-by-the-Department and-has-been-appointed-or-elected-as-a-regular-Board-of-Review--member in--any--county--is--eligible-for-reappointment-or-re-election-in-that county-for-the-immediately-succeeding-term-and-each--consecutive--term thereafter,--without--further-examination.--A-person-so-appointed-as-a regular-member-is-also--eligible--for--appointment--as--an--additional member,--without-examination,-to-hear-complaints-during-the-session-of the-Board-of-Review-next-succeeding-expiration-of-his-regular-term-and during-the-session-of-the-Board-of-Review--in--each--consecutive--year thereafter.~~

~~d) A--person-who-has-passed-an-examination-administered-by-the-Department and-has-been-appointed-as-an-additional-member-in-that-county-to--hear complaints--in-an-emergency-situation-shall-be-appointed-to-serve-only until-adjournment-of-the-Board-of-Review-then-in-session.--However,-he or-she-may-be-reappointed-as-an-additional-member-in-that--county--the next--succeeding--year--and--be--appointed-as-a-regular-member-in-that county-for-a-term-beginning-during-or-immediately-following--the--year for--which--he--or-she-served-as-an-additional-member,-without-further examination.~~

(Source: Amended at 24 Ill. Reg. 2428, effective JAN 25 2000)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT(S)

Section 110.ILLUSTRATION A State of Illinois Board of Review Course and Exam Requirements

LEGEND

Sections below correspond to the Property Tax Code Numbers in parentheses correspond to paragraph numbers in subsection (b) of 86 Illinois Administrative Code Section 110.155

- (1) Sections 6-5, 6-10, 6-15
- (2) Sections 5-5, 6-10
- (3) Sections 6-5, 6-10, 6-15
- (4) Sections 6-5, 6-10, 6-15
- (5) Sections 6-30, 6-32, 6-34
- No examination or course requirements

Status As Of 11-99

ASSESSMENT ADMINISTRATION DIVISION
ILLINOIS DEPARTMENT OF REVENUE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 24 Ill. Reg. 2428, effective JAN 25 2000)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System

2) Code Citation: 80 Ill. Adm. Code 1650

3)

Section Numbers:	Adopted Action:
1650.180	Amended
1650.201	New
1650.202	New
1650.203	New
1650.204	New
1650.205	New
1650.206	New
1650.207	New
1650.208	New
1650.209	New
1650.210	Amended
1650.211	New
1650.221	New
1650.222	New
1650.230	Repealed
1650.341	Amended
1650.350	Amended
1650.356	Amended
1650.357	Amended
1650.391	Amended
1650.392	Amended
1650.450	Amended
1650.451	Amended
1650.571	New
1650.575	Amended
1650.1010	Amended

4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/16].

5) Effective Date of Rulemaking: January 27, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 17, 1999, 24 Ill. Reg. 11522

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: Various punctuation changes recommended by JCAR were made in the final version. Furthermore, based on public comment received during the First Notice Period, the System made changes to Sections 1650.450 and 1650.341. In Section 1650.450, the change qualifies that "similarly situated" individuals were referenced. In Section 1650.341, new text concerning involuntary layoffs is added in subsections (a) and (b).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: The rulemaking reorganizes the System's disability rules to make them more understandable to the TRS membership, and more fully clarifies existing TRS practices.

16) Information and questions regarding these adopted amendments shall be directed to:

Thomas S. Gray, Assistant General Counsel
Teachers' Retirement System
2815 West Washington, P.O. Box 19253
Springfield, Illinois 62794-9253
(217) 753-0375

The full text of the adopted amendments begins on the next page:

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650
THE ADMINISTRATION AND OPERATION OF THE TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section
1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section
1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section
1650.201 Disability Benefits - Application Procedure
1650.202 Disability and Occupational Disability Benefits - Definitions
1650.203 Disability Retirement Annuity - Definitions
1650.204 Gainful Employment - Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary Rates
1650.210 Claim Applications
1650.211 Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220 Reclassification of Disability Claim (Repealed)
1650.221 When Member Becomes Annuitant
1650.222 Death Out of Service
1650.230 Medical Examinations and Investigations of Claims (Repealed)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1650.240 Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250 Death Benefits
1650.260 Evidence of Age
1650.270 Reversionary Annuity - Evidence of Dependency
1650.271 Evidence of Parentage
1650.272 Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280 Evidence of Marriage
1650.290 Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section
1650.310 Effective Date of Membership
1650.320 Method of Calculating Service Credits
1650.325 Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330 Duplicate Service Credit
1650.340 Service Credit for Leaves of Absence
1650.341 Service Credit for Involuntary Layoffs
1650.345 Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346 Service Credit for Periods Away From Teaching Due to Adoption
1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.355 Purchase of Optional Service - Required Minimum Payment
1650.356 Payroll Deduction Program
1650.357 Employer Payment of Member's Optional Service and/or Upgrade Contribution ~~Optional Contribution~~ Balance
1650.360 Settlement Agreements and Judgments
1650.370 Calculation of Average Salary (Renumbered)
1650.380 Definition of Actuarial Equivalent
1650.390 Independent Contractors
1650.391 Optional 2.2 Upgrade of Earned and Credited Service
1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade Application

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section
1650.410 Return of Contributions for Duplicate or Excess Service
1650.420 Interest on Deficiencies (Repealed)
1650.430 Installment Payments (Repealed)
1650.440 Small Deficiencies, Credits or Death Benefit Payments
1650.450 Definition of Salary
1650.451 Reporting of Conditional Payments
1650.460 Calculation of Average Salary
1650.470 Rollover Distributions
1650.480 Rollovers to the System

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

SUBPART G: ATTORNEY GENERALS' OPINION

SUBPART H: ADMINISTRATIVE REVIEW

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

SUBPART J: RULES OF ORDER

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

SUBPART L: BOARD ELECTION PROCEDURES

SUBPART M: RETIREMENT BENEFITS

AUTHORITY: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective JAN 27 2000.

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section 1650.180 Filing and Payment Requirements

a) All employers are required to forward member contributions and amounts required under [40 ILCS 5/16-158(c)] to the System after the close of each pay period or monthly, if a State Institution, and to file an annual report of earnings with the System on or before August 15 of each year. Failure to forward contributions or to file reports shall result in additional amounts due as prescribed by Section 16-155 of the Illinois Pension Code (the Act) [40 ILCS 5/16-155].

b) In determining the additional amount due for late filing of the employer's annual report of earnings as prescribed by Section 16-155(c) of the Act, the postmark date is deemed to be the date of receipt. If the postmark is made other than by the U.S. Post Office, such as a postage meter, the postmark must show a date on or before the date the material was to be received in an office of the System and must be received no later than four working days after the date shown.

c) The employer's annual report of earnings shall be properly completed and report creditable earnings in accordance with applicable laws and rules. Any report failing to materially conform with this requirement shall be returned to the employer and shall not be deemed received until properly corrected and returned to the System.

d) Envelopes must be properly addressed to the System if the reports are to be considered filed timely, with correct postage paid by the employer. The System may accept contributions via electronic transfer.

e) Beginning with the Employers Annual Report of Earnings due August 15, 2000, employers with 50 or more contributing members are required to file the report via the System's automated reporting system.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

SUBPART C: FILING OF CLAIMS

Section 1650.201 Disability Benefits - Application Procedure

a) Any individual claiming a disability benefit under 40 ILCS 5/16-149, 16-149.1 or 16-149.2 shall begin the process by filing a written notice with the System by letter or telefax.

b) For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member files his or her written notice of disability within 90 days after the commencement of disability or the date eligibility for salary ceases, benefits shall be payable from the date the disability commenced or eligibility for salary ceased.

c) For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member files his or her written notice of disability later than 90 days from the commencement of disability or the date eligibility for salary ceases, benefits may be payable from the member's date of application subject to provisions of subsection (d)(3).

d) Disability benefits under the provisions of 40 ILCS 5/16-149 shall become payable the later of:
   1) the 31st calendar day the member is absent from teaching due to the disability for which benefits are sought;
   2) upon exhaustion of the member's sick leave, or if sick leave is not paid by the employer, the date upon which the sick leave would have been exhausted had the member been paid by the employer; or
   3) the date the System receives written notification of disability if more than 90 days have elapsed from the later of:
      A) commencement of disability;
      B) the last day for which salary is payable including payment for sick leave days, whether or not the sick leave days are actually paid for by the employer; or
      C) the date on which all documentation required under 40 ILCS 5/16-149 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).

e) Occupational disability benefits under the provisions of 40 ILCS 5/16-149.1 shall become payable from the later of:
   1) The date after the last day for which salary is paid; or
   2) The date the System receives written notification of disability if more than 90 days have elapsed from the later of:
      A) the commencement of the disability;
      B) the last day for which salary is paid; or
      C) the date on which all documentation required under 40 ILCS 5/16-149 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).

f) When an individual claiming disability benefits is employed under an agreement for less than 12 full months, neither the 31-day waiting period nor the utilization of sick leave requirement, as contained in subsection (d) above, is satisfied during periods not covered by the agreement. For purposes of granting disability benefits, it will be presumed that all employment agreements cover one full school term and are automatically renewable at the commencement of the next school

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term. Satisfactory evidence must be presented of an employment agreement covering a longer period than a full school term (e.g., 10, 11 or 12 months).

g) Whenever a member becomes ineligible to receive a disability or occupational disability benefit due to gainful employment but is subsequently disabled for the same cause within 90 days after the member's or annuitant's last date of eligibility for benefits, benefits shall be reinstated at the previous benefit rate upon written application. Benefits shall commence the day following the last day the member is eligible to receive salary. If more than 90 days have elapsed, benefits shall be reinstated based on the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.202 Disability and Occupational Disability Benefits - Definitions

For purposes of 40 ILCS 5/16-149 and 16-149.1, the following terms and phrases shall have the following definitions:

"Commencement of disability" shall mean the date upon which a member is determined by required medical examination to be "incapacitated to perform the duties of his or her position as a teacher" as defined in this Section.

"Date of application" shall mean the day upon which the System receives in its business offices the written or telefax notice required in this Section notifying the System the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

"Gainful employment" shall mean current employment from which a member realizes "earned income" as that term is defined in section 32(c)(2) of the Internal Revenue Code in excess of $833 in any month or $10,000 in any calendar year, while in receipt of a disability or occupational disability benefit.

"Incapacitated to perform the duties of his or her position as a teacher" shall mean the physical or mental inability to perform substantially all of the member's assigned job duties at the commencement of disability.

"Licensed physician" shall mean any individual licensed by the state in which he or she practices medicine. All reports submitted to the System shall include the registration number of the physician

submitting the report.

"Teacher", for purposes of 40 ILCS 5/16-149(a) and 16-149.1(a), shall mean employment in any equivalent position set forth in 40 ILCS 5/16-106 in this State or another state, territory or by or under the auspices of the United States government.

"Upon application of a member" shall mean the filing of a written or telefax notice by or on behalf of a member notifying the System that the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.203 Disability Retirement Annuity - Definitions

For purposes of 40 ILCS 5/16-149.2, the following terms shall have the following definitions:

"Amount earned by the member" shall mean the member's "earned income" as that term is defined in section 32(c)(2) of the Internal Revenue Code in any calendar year while in receipt of a disability retirement annuity.

"Licensed physician" shall have the same definition as in Section 1650.202.

"No longer disabled" shall mean the member is no longer "incapacitated to perform the duties of his or her positions as a teacher" as that phrase is defined in Section 1650.202.

"Teacher" shall have the same definition as in Section 1650.202.

"The standard of disability provided in Section 16-149" shall mean "incapacitated to perform the duties of his or her position as a teacher" as that phrase is defined in Section 1650.202.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.204 Gainful Employment - Consequences

A member in receipt of a disability benefit under the provisions of 40 ILCS 5/16-149 or 16-149.1 who engages in "gainful employment" as defined in Section 1650.202 shall have his or her disability or occupational disability benefit terminated as provided in Section 16-149(c) or Section 16-149.1(c), whichever is applicable.

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(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.205 Medical Examinations and Investigation of Disability Claims

a) A member applying for or receiving benefits pursuant to 40 ILCS 5/16-149, 16-149.1 or 16-149.2 shall furnish the System medical records, earnings statements, Social Security benefit or claim information, federal and state tax returns, and any other information deemed relevant by the System to process the member or annuitant's disability claim.

b) A member or annuitant shall submit to an independent medical examination at the discretion of the System. The cost of independent medical examinations shall be borne by the System.

c) In order to verify continued eligibility to receive disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1, a member shall provide to the System at least annually written certifications by two state licensed and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time his or her disability commenced. Certifications shall be accompanied by a medical report fully explaining the basis for the physician's conclusion that the member remains disabled. However, this requirement may be waived, at the System's discretion, if it is determined that the member's medical condition or prognosis is irreversible or terminal and will result in a permanent inability to return to his or her former position.

d) When a disability or occupational benefit terminates and a member elects to retire on a disability retirement annuity, the member shall submit to medical examinations, unless the member's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.

e) An annuitant in receipt of a disability retirement annuity who becomes eligible for an age retirement annuity shall submit to medical examinations to retain disability retirement annuity status, unless the annuitant's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.

f) Failure of a member or an annuitant to submit to medical examinations or to provide information required pursuant to 40 ILCS 5/16-149, 16-149.1 or 16-149.2 will result in a suspension of benefit payments.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.206 Physician Certificates

a) Physician certificates are required to be completed by the certifying physician or his or her staff.

b) A physician certificate completed in any part by a member shall not meet the physician certification requirements of 40 ILCS 5/16-149, 16-149.1 or 16-149.2.

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(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.207 Disability Due to Pregnancy

a) A member who is disabled due to pregnancy as provided in 40 ILCS 5/16-149 shall be allowed to receive a maximum of:

1) eight weeks of disability benefits for a pregnancy involving a Cesarean delivery; or

2) six weeks of disability benefits for a pregnancy involving a normal delivery.

b) However, if complications arise during the pregnancy or as the result of delivery, the period of disability may, upon the submission of appropriate medical documentation, be extended until the member no longer qualifies for benefits under 40 ILCS 5/16-149(c).

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.208 Disability Payments

In determining whether a member is receiving salary as a teacher and, therefore, ineligible to receive disability benefits under the provisions of 40 ILCS 5/16-149, 16-149.1 or 16-149.2, proceeds from disability insurance provided by the employer through a private insurance carrier or through a self-insured disability program shall not be considered salary for purposes of 40 ILCS 5/16-149, 16-149.1 or 16-149.2.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.209 Computation of Annual Salary When Member Has Different Semester Salary Rates

For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member has different semester salary rates during the school year, the System shall determine the member's annual salary rate based upon the salary rate during the semester in which the disability benefit becomes payable or the date the member's disability commenced, whichever is greater.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

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Section 1650.210 Claim Applications

~~a)~~ Any individual claiming a retirement annuity, a disability retirement annuity, a survivor benefit, a disability benefit or an occupational disability benefit shall file an application therefor in the form prescribed by the System. This application, together with the membership record, and such other information as may have been compiled during the membership of the member or submitted by the applicant shall constitute the complete record forming the basis of the claim. An application for survivor benefits shall be accompanied by a certified copy of the death certificate, other public record of death, or a physician's certificate of death.

~~b) When 90 or more days have elapsed subsequent to the commencement of a member's disability, oral or written notification of the disability shall be deemed sufficient to commence accrual of benefits. Provided, however, if the System fails to receive the documentation required by Section 16-149 or Section 16-149.1 of the Act within six months of the initial notification, no benefits shall accrue until all required documentation is received by the System.~~

~~c) Disability benefits become payable the later of:~~

~~1) The 31st calendar day after commencement of absence due to disability;~~

~~2) Upon exhaustion of the member's sick leave or (if sick leave is not paid by the employer) when the sick leave would have been exhausted had the member been paid; or~~

~~3) The date the System receives notification of disability if more than 90 days have elapsed from the later of:~~

~~A) commencement of disability; or~~

~~B) the last day for which salary (including sick leave pay) is payable, whether or not these days are actually paid.~~

~~d) When an individual claiming disability benefits is employed under an agreement for less than 12 full months, neither the 31 day waiting period nor the utilization of sick leave requirement, as contained in subsection (c) above, is satisfied during periods not covered by the agreement. For purposes of granting disability benefits it will be presumed that all employment agreements cover one full school term and are automatically renewable at the commencement of the next school term. Satisfactory evidence must be presented of an employment agreement covering a longer period than a full school term (e.g., 10, 11 or 12 months).~~

~~e) Occupational disability benefits become payable the later of:~~

~~1) The date after the last day for which salary is paid; or~~

~~2) The date the System receives notification of disability if more than 90 days have elapsed from the later of:~~

~~A) the commencement of the disability; or~~

~~B) the last day for which salary is paid.~~

~~f) Death after receipt by the System of an application for a retirement annuity and any outstanding payments is deemed to be a death out of service when calculating survivor benefits.~~

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~~g) A member may request, in writing, a transfer from a disability benefit to an age retirement annuity or a disability retirement annuity prior to the expiration of the eligible period for disability benefits. The effective date of such annuities shall be the first of the month following receipt of the request. A member receiving a disability retirement annuity may, any time after becoming eligible for age retirement, request in writing a transfer to an age retirement annuity. The effective date of the age retirement annuity will be the first day of the month following receipt of the written request for such transfer.~~

~~h) Whenever a member because of employment becomes ineligible to receive a disability benefit, disability retirement annuity or occupational disability benefit but is subsequently disabled for the same cause within 90 days, benefits shall be reinstated at the previous rate upon written application. Benefits will commence the day following the last day the member is eligible to receive salary. If more than 90 days have elapsed, benefits shall be reinstated based on the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced.~~

~~i) A member becomes an annuitant of the System upon cashing the first retirement annuity payment or ten calendar days after the date the first retirement annuity payment is deposited in the designated member's bank account by electronic funds transfer.~~

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.211 Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity

a) A member may request, in writing, a transfer from a disability or occupational disability benefit to an age retirement annuity or a disability retirement annuity prior to the expiration of the eligibility period for disability or occupational disability benefits. The effective date of the annuity shall be the first of the month following receipt of the request. An annuitant receiving a disability retirement annuity may, any time after becoming eligible for age retirement, request in writing a transfer to an age retirement annuity. The effective date of the age retirement annuity shall be the first day of the month following receipt of the written request for the transfer.

b) At the time a disability retirement annuitant becomes eligible to receive an age retirement annuity, the disability retirement annuitant shall provide the System written certification by two state licensed and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time the annuitant's disability commenced. The certifications

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shall be accompanied by a medical report fully explaining the basis for the physicians' conclusion that the member remains disabled. If the disability retirement annuitant is found to no longer be disabled, he or she shall be placed upon age retirement and receive an age retirement annuity.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.221 When Member Becomes Annuitant

A member becomes an annuitant of the System upon cashing his or her first retirement annuity payment or ten calendar days after the date the first retirement annuity payment is deposited in the member's designated bank account by electronic fund transfer.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.222 Death Out of Service

Death occurring after the System has received an application for a retirement annuity and any outstanding payments from the member is deemed to be a death out of service when calculating survivor benefits.

(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.230 Medical Examinations and Investigations of Claims (Repealed)

~~a) Each member seeking a disability benefit, occupational disability benefit, or a disability retirement annuity shall provide the System with written reports by two or more licensed and practicing physicians certifying that the member is disabled and unable to properly perform the duties of his or her position. Provided, however, in the case of disability due to pregnancy, the member shall provide the System with a written report by one licensed and practicing physician certifying that she is disabled and unable to perform the duties of her position.~~

~~b) In order to substantiate the member's or the annuitant's continued eligibility for a disability benefits, occupational disability benefit, or a disability retirement annuity, the System shall require that the member or annuitant submit to additional medical examinations and shall request medical records, Department of Employment Security earning statements, Social Security benefit payment information, income tax records, and other pertinent information, under any one of the following circumstances:~~

~~1) There is disagreement among examining physicians;~~

~~2) The medical examinations were inadequate to substantiate continued disability. A medical examination is considered inadequate when:~~

~~A) a report is incomplete; or~~

~~B) a report was not completed within the last three months; or~~

~~C) the duration of disability is shorter than the period between the date of the medical examination and the date of the submittal of the report.~~

~~3) There is evidence an impartial medical examination was not performed. An impartial medical exam is not performed when the physician is:~~

~~A) related to the teacher; or~~

~~B) a friend of the teacher.~~

~~4) There is a reasonable basis to believe the member is no longer disabled. A reasonable basis exists when:~~

~~A) the System receives information that the teacher was engaged in activities which would be prohibited by his or her stated disability; or~~

~~B) the System receives inquiries by teachers receiving a disability benefit, disability retirement annuity or occupational disability benefit regarding the work which they may perform.~~

~~5) The member is found to be gainfully employed. The term "gainfully employed":~~

~~A) shall be construed to mean:~~

~~i) any compensation which exceeds $500 in any month for personal services, including fees, wages, salary, commissions, and similar items; and~~

~~ii) any income which exceeds $500 in any month derived from the participation in a business activity through the performance of physical and/or mental activities generally performed for the production of income; and~~

~~B) shall be computed on a gross rather than net basis (i.e., no deduction of any kind, including but not limited to deductions for losses, expenses, taxes or withholding, will be considered in such computation); and~~

~~C) shall be computed either on a monthly or on an annual basis; that is: more than $500 compensation earned in a month results in a loss of eligibility for that month; more than $6,000 compensation earned in a year results in loss of eligibility for that year.~~

~~c) Members or annuitants in receipt of a disability benefit or occupational disability benefit shall be requested to submit to medical examinations at least once each year. When a disability benefit terminates, and a member elects to retire on a disability retirement annuity, the member shall submit to medical examinations, unless the member's last examination within the preceding six months substantiates a continuing disability, in which case no new medical examinations are required.~~

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d) A member in receipt of a disability retirement annuity who becomes eligible for an age retirement annuity shall submit to medical examinations to retain disability retirement annuity status.

e) The System may have medical information submitted to it evaluated by a qualified consultant or consulting firm. The System retains the right to require members or annuitants to submit to medical examinations by physicians selected by the System, at its own expense. These examinations may be in addition to the written reports tendered by the member or the annuitant. Such examinations shall be required when prior medical examinations were inadequate, when there is a question regarding the independence of the physician or when the forms are not completed properly or there is a reasonable basis to believe the member is no longer disabled.

f) Failure of a member or an annuitant to submit to medical examination, or to provide the information required pursuant to Sections 16-149 through 16-149.2 of the Act shall result in suspension of payments.

g) The term "licensed physician" means any individual licensed by the state in which he or she practices as a medical doctor. All licensed physicians shall be requested to submit their registration number on all reports submitted to the System.

h) Each beneficiary seeking to receive a survivor benefit as a disabled eligible child shall provide the System with a written report from a licensed and practicing physician certifying the beneficiary is disabled as defined by Section 16-140(4) of the Act and Section 1650.272(a)(2) of this Part. Disabled children in receipt of a monthly survivor benefit shall be requested to submit to an annual medical examination, unless exempted therefrom by Section 1650.272(b). If a required medical examination is not submitted to the System, survivor benefits will be suspended until such required examination is received.

i) In order to substantiate the beneficiary's continued eligibility as a disabled child, for a survivor benefit, the System shall require that the beneficiary submit to additional medical examinations and shall request medical records, Department of Employment Security earnings statements, Social Security benefit payment information, Public Aid benefit payment information, income tax records, and other pertinent information, under any one of the following circumstances:

1) The medical examination was inadequate to substantiate continued disability. A medical examination is considered inadequate when:

A) a report is incomplete, or

B) a report was not completed within the last three months, or

C) the duration of disability is shorter than the period between the date of the medical examination and the date of the submittal of the report.

2) There is evidence an impartial medical examination was not performed. An impartial medical exam is not performed when the physician is:

A) related to the beneficiary, or

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B) a friend of the beneficiary.

3) There is reasonable basis to believe the beneficiary is no longer disabled. A reasonable basis exists when:

A) the System receives information that the beneficiary was engaged in substantial gainful activity, or

B) the System receives inquiries from the beneficiary regarding the work the beneficiary may perform.

4) The beneficiary is found to be able to engage in substantial gainful activity. The term "substantial gainful activity" is defined in Section 1650.250(c).

j) Failure of the beneficiary to submit to medical examinations, or to provide the information required to establish or substantiate continued disability, shall result in suspension of payments.

(Source: Repealed at 24 Ill. Reg. 2446, effective JAN 27 2000)

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section 1650.341 Service Credit for Involuntary Layoffs

a) An involuntary layoff occurs when a member's employment is terminated as result of a reduction in force due to lack of funding, lack of work, an elimination of position, or a material reorganization.

b) Involuntary layoffs shall not include non-renewals of employment unrelated to reasons set forth in subsection (a) or dismissals for cause or other performance related reasons.

c) To receive service credit for an involuntary layoff, a member must be re-employed in a contractual teaching position under this System or the State Universities Retirement System for the creditable period of the layoff or one year, whichever is less.

For purposes of this Section, involuntary layoffs shall not include dismissals for cause or other performance related reasons. The statutory return to teaching requirement is met when the member establishes credit with this System or the State Universities Retirement System for at least the lesser of the creditable period of the layoff or one year.

b) For purposes of this Section, a layoff occurs when there is a termination of paid employment due to lack of work, lack of funds, abolition of a position, or a material change in duties or organization.

(Source: Amended at 24 Ill. Reg. 2446, effective JAN 27 2000)

Section 1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement

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a) To be creditable for retirement purposes, sick leave days must actually be available for use by a member in the event of illness. Service credit is not available and shall not be computed for sick leave days added to the record of a member for the purpose of increasing a member's retirement service credit. To determine if any sick leave days granted by an employer in excess of the member's normal annual sick leave allotment during a member's final years of employment are actually available for use and reportable to the System as service credit, the System shall apply the following formula:
   1) from the date upon which the sick leave days were granted, the number of days remaining in the school term or the member's employment agreement, whichever is greater, until termination shall be determined;
   2) from the resulting number of days the System shall subtract the number of sick leave days previously accrued by the member; and
   3) the difference is the maximum number of sick leave days that may be reported in addition to those days previously accrued, provided that the employer will allow the member to use such days in the event of illness prior to termination.

b) Unused and uncompensated sick leave days are not eligible for service credit at retirement when the member receives ~~direct~~ compensation for such days. ~~Direct compensation means payment of salary, wages, fringe benefits, contributions, bonuses and lump sum payments before retirement. Notwithstanding the foregoing provisions of this subsection (b), a member is not deemed compensated if his or her employer maintains or establishes a reward system (based upon daily attendance of employees) which pays additional benefits to a member (including but not limited to salary) and which does not reduce the accumulated sick leave days available for use and credited to the member by the employer.~~ Effective July 1, 1998, if a member receives payment for accumulated sick leave days that is also reportable to the System as creditable earnings, no service credit shall be available for the days so compensated.

c) For purposes of calculating a retirement annuity, the System shall not grant service credit for any days withdrawn by the member from a sick leave bank in excess of the days deposited therein and unused by the member.

d) Accumulated personal leave days are governed by the same standards set forth in subsections (a) and (b) above for sick leave days, but only if they were actually available for use by a member in the event of illness.

e) Accumulated, unused vacation days are not creditable with the System.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.356 Payroll Deduction Program

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a) Effective July 1, 1998, *a member who is employed on a full-time basis may have* his or her employer *pick up upgrade and/or optional service contributions that the member has elected to pay the System* through the payroll deduction program, *and the contributions so picked up shall be treated as employer contributions for the purposes of determining federal* income *tax treatment* [40 ILCS 5/16-152.1(d)].

b) Prior to the member's election to have his or her employer pick up the member's upgrade and/or optional service contributions, the member shall first establish the member's eligibility to purchase optional service credit pursuant to Section 16-127 of the Pension Code [40 ILCS 5/16-127], to repay a refund pursuant to Section 16-151 of the Pension Code [40 ILCS 5/16-151], or to upgrade the benefit formula in accordance with Section 129.1 of the Pension Code [40 ILCS 5/16-129.1].

c) After establishing an upgrade and/or optional service contribution balance and electing to have the ~~optional~~ contributions picked up on a before-tax basis, the member shall contact the System prior to the anticipated enrollment date and request that an irrevocable payroll deduction authorization be prepared and sent to the member.

d) To participate in the payroll deduction program, *the member shall execute a binding, irrevocable payroll deduction authorization* that is furnished to the member by the System [40 ILCS 5/16-152.1(d)].
   1) In the agreement, the member shall confirm that he or she is employed by the employer on a full-time basis.
   2) The amount of the upgrade and/or optional service contribution balance as of the enrollment date and the type(s) of optional service and/or upgrade shall be indicated on the authorization form.
   3) The amount to be deducted on a monthly basis shall be clearly indicated on the authorization form. The monthly deduction shall remain constant except for the final payment, which may be less than the stated amount. The minimum monthly deduction must equal the lesser of the amount owed or $50. However, if the authorization is for an upgrade balance ~~feature~~, the maximum term allowed for the payment of such type of service shall be 5 years.
   4) The rate of interest shall equal the regular interest rate established in Section 16-112 of the Pension Code [40 ILCS 5/16-112] in effect on the enrollment date. However, no interest shall be charged to a member for that portion attributable to an upgrade contribution.
   5) The enrollment date shall be determined as follows:
      A) If the deductions will occur on a periodic basis for more than one month, the enrollment date shall be the first day of the calendar quarter after the execution of the payroll deduction authorization by the member and on behalf of the employer.
      B) If the deductions will occur during only one calendar month, the enrollment date shall be the first day of the calendar

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month in which the deduction will be made after the execution of the payroll deduction authorization by the member and on behalf of the employer.

6) The execution and acceptance of the payroll deduction authorization must occur prior to the enrollment date.

7) The payroll deduction authorization shall be irrevocable when the first deduction is made from the member's pay ~~upon the first day of the pay period in which the first deduction will be made~~. An irrevocable payroll deduction authorization may only be terminated in accordance with subsection (h) below.

8) The System will accept direct payments from the member to pay for separate upgrade balances not covered by an irrevocable payroll deduction authorization. A member, who has a valid, irrevocable payroll deduction authorization in effect, shall be prohibited from making after-tax contributions or authorizing rollovers for the purpose of reducing his or her optional service ~~contribution~~ balance.

9) A member may have a separate agreement for each type of optional service or identifiable upgrade cost.

A) An agreement may cover more than one type of optional service and/or upgrade cost.

B) A member shall have only one agreement with an employer for each type of optional service and/or upgrade cost, unless additional optional service is based upon employment or other qualifying event occurring after the enrollment period for the previous authorization for the same type of optional service and/or upgrade cost.

10) A payroll deduction authorization containing an unapproved change is void ~~The authorization form may not be altered in any way or manner. Altered forms are void~~.

e) The member shall forward the executed payroll deduction authorization to the member's employer.

f) A duly-authorized representative of the employer shall execute the payroll deduction authorization on behalf of the employer prior to its enrollment date.

1) Prior to acceptance, the duly-authorized representative of the employer shall determine that:

A) the member is employed by the employer on a full-time basis; ~~and~~

B) the irrevocable payroll deduction authorization does not contain any handwriting other than the signature of the member and the date upon which the member executed the authorization; and

C) the date on which the authorization is presented to the employer is prior to the enrollment date stated in the authorization.

2) Upon accepting the payroll deduction authorization, the duly-authorized representative of the employer shall:

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A) retain the upper portion of the authorization for its records; and

B) sign the lower portion of the authorization and remit it to the Teachers' Retirement System at the address shown thereon prior to the first remittance.

3) The member's employer shall pick up the contributions from the same source of funds that is used to pay earnings to the member.

4) Prior to or on the 15th day of the month following the month in which the deduction is made, the employer shall:

A) remit to the System the payroll deduction by:

i) check, cashier's check, or money order, along with an approved TRS remittance advice form; or

ii) by electronic fund transfer; and

B) send the System a mechanically-produced paper report that includes:

i) each participating member's name, social security number, and the amount remitted on behalf of each member; and

ii) the name and social security number of each member who was scheduled to have an amount remitted but who had a qualifying event that terminated the agreement or who had an event that suspended the agreement and the reason or reasons for such termination or suspension.

5) The employer shall withhold the amount stated in the irrevocable payroll deduction authorization until the balance for which the authorization was made is paid in full or until such time that a qualifying event occurs that terminates the authorization for a particular member. Prior to the month in which the last payment will be made, the System shall inform the employer and the member of the amount of the last payment as well as the month in which the last payment is to be made, except for agreements of less than two months.

6) The employer shall not remit any payroll deduction program ~~any periodic optional~~ contributions on behalf of a member directly to the System without such contributions having been made through this payroll deduction program.

g) A payroll deduction authorization shall be suspended (rather than terminated) if the member is not receiving a salary from the employer with whom the member made the authorization agreement for a period of time not to exceed one year and is promised renewed employment at the end of the period or has the right of re-employment pursuant to Section 24-12 of the School Code [105 ILCS 5/24-12]. At the end of the suspension period:

1) if the member is not re-employed within one year after the beginning of the suspension period, the authorization shall be terminated in accordance with subsection (h) below; or

2) if the member is re-employed, the employer shall deduct the amount stated in the agreement until the balance is paid in full

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or a qualifying event occurs that would terminate the authorization.

h) A payroll deduction authorization terminates:
  1) upon the payment in full of the balance (including interest) for which the authorization was made; or
  2) after the occurrence of a qualifying event.
    A) The term "qualifying event" is defined as:
      i) the death of the member; or
      ii) the disability of the member; or
      iii) the retirement of the member; or
      iv) the termination of the member's employment status.
    B) The phrase "disability of the member" is defined as the cessation of salary from the employer due to the inability of the member to perform the duties of his or her position for an expected period of one year or more.
    C) The phrase "termination of the member's employment status" is defined as:
      i) the change of the member's full-time employment status to a substitute status or a part-time status, but does not include the change from a full-time covered position to a full-time non-covered position with the same employer; or
      ii) the resignation or other termination of employment with the employer; or
      iii) a suspension period that is greater than one year.
  3) Upon termination of a non-upgrade-related payroll deduction authorization prior to the balance being paid in full:
    A) the member may pay the remainder in full by an after-tax lump sum payment, by a rollover, or by executing a new payroll deduction authorization form with another employer; or
    B) if the member does not pay the remainder in full prior to retirement and:
      i) if the payment was for optional service credit, the portion of the optional service credit paid shall be credited to the member's account; or
      ii) if the payment was for a repayment of a refund, the amount contributed shall be refunded to the member.
  4) Upon termination of an upgrade-related payroll deduction authorization prior to the balance being paid in full, the provisions of 80 Ill. Adm. Code 1650.391 and 1650.392 shall apply.

i) For purposes of this Section:
  1) The term "employer" shall mean the State of Illinois, excluding any State entity to the extent its employees are not paid through the State Comptroller and any employer of a teacher as defined in 40 ILCS 5/16-106 ~~that is required or allowed to participate in the retirement program administered by the System~~.

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  2) The phrase "type of optional service" shall mean:
    A) the following types of optional service credit described in Section 16-127 of the Pension Code [40 ILCS 5/16-127]: prior service as a teacher, out-of-system service, military service, General Assembly service, leaves of absence (including pre-1983 pregnancy and adoption leaves), substitute teaching, and part-time teaching; and
    B) the repayment of a refund pursuant to Section 16-151 of the Pension Code [40 ILCS 5/16-151]. ~~, and~~
    ~~C) the upgrade of established service pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1];~~ ~~and~~
    ~~D) the upgrade of the following types of optional service credit described in Section 16-127 of the Pension Code [40 ILCS 5/16-127]: prior service as a teacher, out-of-system service, military service, General Assembly service, leaves of absence (including pre-1983 pregnancy and adoption leaves), substitute teaching, and part-time teaching; and~~
    ~~E) the upgrade of the repayment of a refund pursuant to Sections 16-129.1 and 16-151 of the Pension Code [40 ILCS 5/16-129.1, 16-151].~~
  3) The phrase "a member who is employed on a full-time basis" shall mean:
    A) a full-time teacher as defined in Section 16-106.1 of the Pension Code [40 ILCS 5/16-106.1]; or
    B) if not currently a teacher under the provisions of Section 16-106 of the Pension Code [40 ILCS 5/16-106], a member who is determined to be employed full-time in accordance with the rules and practices of such employer.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.357 Employer Payment of Member's Optional Service and/or Upgrade Contribution ~~Optional Contribution~~ Balance

An employer may make a payment of a member's optional service and/or upgrade contribution balance (see 80 Ill. Adm. Code 1650.356(b)) on behalf of the member once per plan year, subject to the following conditions:

a) If the member does not have a payroll deduction authorization (80 Ill. Adm. Code 1650.356), the payment shall be either:
  1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made; or
  2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.

b) If the member has a payroll deduction authorization (80 Ill. Adm. Code

1650.356) and the employer payment is made prior to the payroll deduction authorization becoming irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:

1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made; or

2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.

c) If the member has a payroll deduction authorization (80 Ill. Adm. Code 1650.356) and the employer payment is made after the payroll deduction authorization becomes irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:

1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made if the authorization for the pick up is made by the employer prior to the date on which the payroll deduction agreement becomes irrevocable; or

2) returned to the employer if the authorization to pick up the contribution is made after the date on which the payroll deduction agreement became irrevocable or if the payment is supposed to be an after-tax contribution.

d) The employer shall certify to the System whether the payment is made on an after-tax basis or picked up pursuant to a contractual obligation, such as a collective bargaining agreement or an individual employment contract, or pursuant to a resolution of the governing body of the employer.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.391 Optional 2.2 Upgrade of Earned and Credited Service

a) Applying to upgrade.

1) Effective July 1, 1998, a member may apply to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, to the 2.2% flat rate described in subsection (a)(B)(1) of Section 16-133 of the Pension Code [40 ILCS 5/16-133] by making the optional contribution specified in subsection (b).

2) *A member may not elect to qualify for the* upgraded *rate for only a portion of his or her creditable service earned before July 1, 1998* [40 ILCS 5/16-129.1(a)].

3) The member shall make application by completing a written upgrade application and sending it to the System.

4) The effective period of the application shall begin as of the

date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before December 1, 1998, the aforementioned 60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.

5) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.

b) Determining the ~~optional~~ contribution necessary for upgrade.

1) The ~~optional~~ contribution necessary for the upgrade *shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the* positive *number of years of creditable service earned by the member before July 1, 1998, or 20, whichever is less. This contribution shall be reduced by 1.0% of that salary rate for every 3 full years of creditable service earned by the member after June 30, 1998. The contribution shall not in any event exceed 20% of that salary rate.* [40 ILCS 5/16-129.1(b)]

A) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

B) When determining the ~~optional~~ contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.

C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.

D) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the

calculation of the optional contribution necessary for the upgrade feature.

F) For purposes of this Section, *optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System* [40 ILCS 5/16-129.1(d)].

2) The contribution calculated in accordance with this subsection (b) shall be paid in full by one or more of the following methods:

A) a single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover (see 80 Ill. Adm. Code 1650.480); or

B) a periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or

C) if the member becomes an annuitant before June 30, 2003, a periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

3) If a combination of methods is chosen by the member:

A) the total period in which the member's payments are made shall not exceed the effective period of the application; and

B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.

c) Failing to make contribution.

1) A member has failed to make the full contribution in a timely fashion:

A) if the full contribution is not paid within the effective period of the application; or

B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.

2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.

3) *If the member has failed to make the full contribution in a timely fashion, the payments made under this Section shall be refunded to the member, without interest* [40 ILCS 5/16-129.1]. However, if the member is able to reapply, and does reapply, for the 2.2 upgrade feature prior to the refund being made, the amount of the refund shall be used as a partial lump sum contribution towards the cost of the 2.2 upgrade feature.

4) *If the member dies before making the full contribution, the payments under this Section, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138* of the Pension Code [40 ILCS 5/16-129.1].

d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect.

e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade application.

f) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1 based upon the earliest to the latest payments.

g) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade Application

a) This Section shall apply only to a member who has elected to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] and 80 Ill. Adm. Code 1650.391 and who has less than 20 years of service earned and credited before July 1, 1998.

1) The member shall make application by completing a written upgrade application and sending it to the System.

2) A member participating in a pre-July 1, 1998 service upgrade may upgrade any optional service credit added within the 5-year period provided in Section 16-129.1(b)(ii) at the same salary rate as that of the original upgrade, provided that the added optional service upgrades are paid off within the 5-year period. ~~The application for the upgrade may occur at any time after the optional contribution balance has been established for the underlying optional service. However, if the member has an optional contribution balance on, or establishes an optional contribution balance prior to the January 15 following the one~~

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~~year--anniversary--of,--the--date--of--application-for-earned-and credited-service-under-80-Ill.-Adm.-Code-1650.391,--the--date--of application--for--such-optional-contribution-balance-shall-be-the date-of-application-for-earned-and-credited-service-under-80-Ill. Adm.-Code-1650.391.~~

3) The effective period of the application shall begin as of the date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before December 1, 1998, the aforementioned 60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.

4) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.

b) A member subject to this Section shall be required to pay an upgrade charge for any optional service credited to the member's service on or after July 1, 1998, if the time of employment or other qualifying event upon which the service is based is prior to July 1, 1998.

1) The upgrade charge shall only apply to the number of years of optional service being credited, which is equal to the lesser of:

A) the number of years being upgraded; or

B) the remainder of the following formula: 20 minus the number of years of creditable service earned and credited before July 1, 1998, which are being or were previously upgraded pursuant to 80 Ill. Adm. Code 1650.391 or pursuant to this Section minus one year for every 3 full years of creditable service earned and credited after June 30, 1998, which were not used in previous calculations under this subsection (b).

2) <u>For members not subject to subsection (a)(2) of this Section, the</u> ~~The--optional~~ contribution necessary for the upgrade under this Section shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the number of years of service determined in accordance with subsection (b)(1).

A) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

B) When determining the ~~optional~~ contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for

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the preceding year by more than 20% shall be excluded.

C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.

D) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the ~~optional~~ contribution necessary for the upgrade feature.

F) For purposes of this Section, *optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System* [40 ILCS 5/16-129.1(d)].

3) The contribution calculated in accordance with this subsection (b) shall be paid in full by one or more of the following methods:

A) a single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover (see 80 Ill. Adm. Code 1650.480); or

B) a periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or

C) if the member becomes an annuitant before June 30, 2003, a periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

4) If a combination of methods is chosen by the member:

A) the total period in which the member's payments are made shall not exceed the effective period of the application;

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and

B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.

c) Failing to make contribution.

1) A member has failed to make the full contribution in a timely fashion:

A) if the full contribution is not paid within the effective period; or

B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.

2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.

3) If the member fails to make the full contribution within the appropriate time period described in subsection (c)(1), and:

A) if the payment is for the repayment of a refund, the amount contributed for both the refund and upgrade shall be refunded to the member, without interest; or

B) if the payment is for optional service other than a refund, and:

i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or

ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the payments made for the upgrade shall be refunded to the member, without interest.

C) However, if the reason for the failure is the death of the member:

i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or

ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391 or if the payment is for a refund, the payments made for the upgrade, together with regular interest thereon, *shall be refunded to the member's designated beneficiary for benefits under Section 16-138* of the Pension Code [40

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ILCS 5/16-129.1].

D) The date of application for the purpose of determining the amount of optional service credit paid shall be deemed to be:

i) if pursuant to subsection (c)(3)(B)(i) above, the date upon which the failure to contribute in a timely fashion occurred; or

ii) if pursuant to subsection (c)(3)(C)(i) above: the date of the application which terminated upon the member's death if the member had applied for the upgrade prior to his or her death; or the date of death if the member had not previously applied for the upgrade.

d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect for the same type of optional service.

e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade.

f) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1(b) based upon the earliest to the latest payments.

g) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 24 Ill. Reg. 2460; effective JAN 27 2000)

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section 1650.450 Definition of Salary

a) Any emolument of value recognized by the System that is received, actually or constructively, by a member in consideration for services rendered as a teacher, within all applicable limits and restrictions on qualified pension plans contained in the Internal Revenue Code, 26 USC ~~U.S.C., at Section~~ 401(a) et seq. Subsection (b) of this Section lists the more common elements of compensation that are recognized by the System as "salary," for purposes of illustration. For further illustration, subsection (c) mentions several examples of items not recognized by the System as "salary." However, "salary" within the meaning of Section 16-121 of the Act is not limited to the items so enumerated.

b) Examples of salary amounts to be reported to the System include:

1) The gross amount of wages or compensation earned or accruing to the member during the legal school term or the length of his or her employment agreement, whichever is greater, in a function

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requiring certification as a teacher, and payable by the employer at termination of service;

2) Wages or compensation for overtime or extra service;

3) The amount of back salary awarded to a member as a result of a settlement or judgment obtained due to a disputed dismissal, suspension or demotion. Court costs, attorney's fees, other compensatory damages and punitive damages shall not be reportable as salary. The back salary amount reported to the System under this Section shall be equal to the amount which the member would have earned had the dispute not occurred, regardless of the actual amount paid;

4) Severance pay (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) received by member or becoming due and payable to member prior to or concurrent with receipt of final paycheck for regular earnings;

5) Contributions made by or on behalf of the member to qualified deferred compensation plans (sections ~~Sections~~ 401(a) and 457 of the Internal Revenue Code), salary reduction plans or tax sheltered annuities under section ~~Section~~ 403(b) of the Internal Revenue Code; and

6) Amounts that would otherwise qualify as salary under subsections (b)(1) through (b)(5) above but are not received directly by the member because they are used to finance benefit options in a flexible benefit plan; provided, however, that to be reportable, a flexible benefit plan must be available to teachers on a non-discriminatory basis and cannot include non-qualifying deferred compensation. Effective July 1, 1999, flexible benefit plans need not be made available to teachers on a non-discriminatory basis. For the System's purposes, a flexible benefit plan is an option offered by an employer to its employees covered under the System to receive an alternative form of creditable compensation in lieu of employer-provided insurance.

c) Examples of amounts not reportable to the System include:

1) Any severance payment (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) becoming due and payable to member subsequent to receipt of final paycheck for regular earnings;

2) Any lump sum payment made after the death of the member;

3) Expense reimbursements, expense allowances, or fringe benefits unless included in a reportable flexible benefit plan;

4) Any monies received by the member under the Workers' Compensation Act or the Workers' Occupational Diseases Act;

5) Any amount paid in lieu of previously nonreportable benefits or reported in lieu of previously non-reported compensation where the conversion occurs in the last years of service and one of the purposes is to increase a member's average salary. If the member's non-creditable or non-reported compensation in any of the last seven creditable school years of employment exceeds that

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of any other subsequent year, the System will presume the difference, unless resulting from the terms of a collective bargaining agreement, to have been converted into salary and wages in the subsequent year for the purpose of increasing final average salary. To overcome the presumption, the member must submit documentary evidence to the System which clearly and convincingly proves that none of the purposes of the change in compensation structure was to increase average salary (for example, changes in collectively bargained agreements applicable to all similarly situated individuals covered by the agreement, change of employer, change in family status);

6) Any amount paid by an employer as the employer's one time contribution (or on behalf of the employee as the employee's one-time contribution) required by the System as part of the statutory early retirement option in Section 16-133.2 of the Act;

7) Options to take salary in lieu of employment-related expense allowances or reimbursements;

8) Employer payment of the member's one-half of one percent health insurance contribution.

(Source: Amended at 24 Ill. Reg. 2460, effective JAN 27 2000)

Section 1650.451 Reporting of Conditional Payments

Payments that are conditioned upon the occurrence of a future event (e.g., retirement) shall be reported in the school year paid to the member. ~~in--which the--condition--upon--which--payment--is--predicated--occurs.~~ However, if the condition upon which payment is predicated does not occur and the payment is repaid to the employer, an adjustment is required to remove the payment from the school year in which the payment was originally reported.

(Source: Amended at 24 Ill. Reg. 2460, effective JAN 27 2000)

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section 1650.571 Payment of Monthly Survivor Benefits to a Trust

a) A member may designate a trust to receive monthly survivor benefits on behalf of a dependent beneficiary.

b) However, to do so, the trust must provide that the survivor benefit annuity will be used solely for the care and benefit of the member's dependent beneficiary.

c) Prior to the processing of a claim for survivor benefits, the trustee of the trust shall furnish the System that part of the trust demonstrating that the conditions set forth in subsection (b) of this Section are met.

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(Source: Added at 24 Ill. Reg. 2440, effective JAN 27 2000)

Section 1650.575 Full-time Student - Receipt of Survivors Benefits Until Age 22

a) For purposes of 40 ILCS 5/16-140(4), a full-time student shall be one who is enrolled in a course of study in an accredited educational institution (other than a program of study by correspondence), and who is carrying a full-time workload as determined by the educational institution during the regular school year for the course of study the student is pursuing.

b) Accredited educational institutions include schools, colleges, universities, and post-secondary vocational institutions whose courses of study are approved by appropriate state or federal educational accreditation authorities.

c) A regular school year is the eight to nine months which includes two semester terms or three quarter terms (or their equivalent), excluding the summer term. Terms that begin after April 15 and end before September 16 are considered summer terms.

d) Survivors benefits shall be payable during the period between regular school years if the benefit recipient was a full-time student the preceding semester term or quarter term (or their equivalent).

e) To verify that an eligible child is a full-time student, the System must receive a certification signed by an official of the educational institution confirming that the student is a full-time student as provided in subsection (a) above.

f) Payment of survivor benefits under this Section will begin on the 15th of the month preceding the start of the full-time student's first semester or quarter of matriculation.

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

SUBPART L: BOARD ELECTION PROCEDURES

Section 1650.1010 Petitions

a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System, upon request of any individual or entity.

b) A valid petition nominating a candidate for a vacant teacher position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:

1) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate pursuant to subsection (a) or (b) of Section 1650.1000. A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures thereon must be original signatures;

2) Each signature of an eligible voter must be accompanied by the signing person's name (printed), social security number, street address, city, and state;

3) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained thereon were signed in that individual's presence, are genuine, and that to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so as provided in subsection (a) or (b) of Section 1650.1000;

4) Petitions shall be filed with the Board's secretary not less than 90 nor more than 120 days prior to the election day;

5) Petitions filed less than 90 days prior to the election day are invalid and will be returned to the party submitting such petition for filing; and

6) Petitions filed more than 120 days prior to the election day will not be accepted and will be returned to the party submitting such petition for filing. Nothing in this subsection precludes the timely re-filing of petitions filed more than 120 days prior to the election day.

c) The Board's secretary shall determine the validity of all petitions not less than 75 days prior to the election day.

d) Any individual may, upon reasonable notice to the System, examine the petitions which have been filed with the System with respect to the election to take place that year; provided, however, that in order to protect the signing teachers' and annuitants' rights to privacy and confidentiality as to their names, addresses, and social security numbers, such examination shall only take place subject to the following limitations:

1) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board's secretary as provided above in subsection (c) of this Section;

2) Petitions may not be removed from the System's offices, copied, or duplicated by any means; and

3) Petitions, including any information thereon, shall not be subject to production or disclosure under the provisions of the Illinois Freedom of Information Act (FOIA) [5 ILCS 140].

(Source: Amended at 24 Ill. Reg. 2440, effective JAN 27 2000)

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Day Care Information Line

2) Code Citation: 89 Ill. Adm. Code 378

3) Section Numbers: Emergency Actions
378.30 Amended

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

5) Effective Date of Amendments: January 14, 2000

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A

7) Date filed with the Index Department: January 14, 2000

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The emergency amendments allow the Department to report on serious problems within day care facilities so that callers to the Day Care Information Line have complete information upon which to make decisions when placing their children for care. Under the prior rules, the Department could not advise a caller if a revocation action was pending or if a facility was operating under a protective plan that either prohibited caring for children or placed restrictions on the facility.

10) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 378 as follows:

In Section 378.30 the Department is adding the following to the list of information that will be provided by the Day Care Information Line:

pending revocations,
administrative orders of closure, and
whether the facility is under a protective plan.

This Section is also being amended to remove the limitation on reporting substantiated complaints and Department staff findings of licensing violations to the preceding twelve months. Under the amended rule, the Department will report all substantiated complaints and licensing violations since January 1, 1999.

11) Are there any other amendments pending to this Part? No

12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

13) Information and questions regarding this amendment shall be directed to:

Jeff E. Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
(217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

The full text of the emergency amendments begins on the next page.

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 378
DAY CARE INFORMATION LINE

Section
378.10 Purpose
378.20 Definitions
378.30 General Requirements and Operation of Day Care Information EMERGENCY Line

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted at 23 Ill. Reg. 5673, effective May 10, 1999; emergency amendment at 24 Ill. Reg. 2476, effective January 14, 2000, for a maximum of 150 days.

Section 378.30 General Requirements and Operation of Day Care Information Line EMERGENCY

a) Hours of Operation
The Department of Children and Family Services shall establish and maintain a Statewide toll-free number that will be staffed from 8:30 a.m. - 5:00 p.m., Monday through Friday, excluding holidays. The phone line shall be available to all individuals within the State of Illinois to provide the history and record of licensed day care homes, group day care homes, day care agencies and day care centers.

b) Information to be Provided
1) Specific information provided by the day care information line on day care facilities closed prior to January 1, 1999 shall be:
A) date the facility was initially licensed,
B) expiration date of the last ~~current~~ license,
C) revocations, and
D) surrenders.
2) Specific information provided by the day care information line on a licensed day care facility ~~facilities~~ whose license is in effect at the time of inquiry ~~on January 1, 1999 or which becomes licensed after January 1, 1999~~ shall be:
A) date the facility was initially licensed,
B) effective date of the current license,
C) expiration date of the current license,
D) license capacity,
E) age range served,

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

F) revocations and pending revocations,
G) surrenders,
H) administrative orders of closure,
I)~~H)~~ licensing status (i.e., pending, conditional, etc.), and
J) whether the facility is under a protective plan pending the outcome of a licensing investigation, and
K)~~I)~~ a list of substantiated complaints and Department staff findings of licensing violations since January 1, 1999 ~~for the preceding 12 months prior to the date of inquiry~~. Information on substantiated complaints and licensing violations that occurred prior to January 1, 1999 shall not be released through the day care information line. Such information is available through a Freedom of Information Act request.

c) Confidential Information
The following information shall not be released by the day care information line:
1) specific details on the substantiated complaints, licensing violations, revocations, protective plans, administrative orders of closure, or surrenders,
2) child abuse and neglect reports,
3) children's names,
4) parents' names,
5) employees' names and/or position,
6) information on any ~~complaint--investigation--that-is-currently~~ pending ~~or has not been substantiated by a Department~~ licensing investigation except for the presence of a protective plan,
~~7) enforcement--actions--currently--waiting--resolution--through-the appeal-process;~~
7)~~8)~~ financial information, and
8)~~9)~~ identity of the reporter of the complaint.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 2476, effective January 14, 2000, for a maximum of 150 days)

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Admitted Assets

2) Code Citation: 50 Ill. Adm. Code 945

3)

Section Numbers:	Emergency Action:
945.10	New Section
945.20	New Section
945.30	New Section
945.40	New Section
945.50	New Section

4) Statutory Authority: Implementing and authorized by Sections 136 and 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401] and Sections 1-3 and 2-7 of the Health Maintenance Organization Act [215 ILCS 125/1-3 and 2-7] (See P.A. 91-549, effective August 14, 1999).

5) Effective Date of Emergency Rule: January 28, 2000

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency rule will expire upon the adoption of a permanent rule.

7) Date Filed with Index Department: January 27, 2000

8) A copy of the adopted rules including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.

9) Reason for Emergency: The emergency is created as a result of the adoption of P.A. 91-0549 which was an omnibus bill for the Department that was a compilation of several other bills. In the process of creating the omnibus bill, the effective dates of the individual bills were all changed to be effective upon becoming law which has created uncertainty as to the application of its various provisions. The original bill that amended the definition of admitted assets contained an effective date of January 1, 2001, the date all parties intended the change to occur. The original bill maintained the current definition through December 31, 2000. Any change in the definition of admitted assets caused by the confusion over the effective date could affect several regulatory aspects concerning the Department, especially the Department's ability to conduct financial audits of the regulated industry to insure financial stability of the regulated industry.

10) A Complete Description of the Subjects and Issues Involved: The rule concerns the definition of "admitted assets" as previously used in the Illinois Insurance Code and Health Maintenance Organization Act. The language being adopted is the language which was inadvertently stricken by P.A. 91-0549.

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

11) Are there any proposed amendments to this Part pending? No. However, the Department intends on adopting a permanent rule to replace the emergency rule.

12) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

13) Information and questions regarding this amendment shall be directed to:

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217)785-8560

or

Chuck Feinen
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217)557-1396

The full text of the Emergency Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER l: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 945
ADMITTED ASSETS

Section
945.10 Purpose
EMERGENCY
945.20 Applicability
EMERGENCY
945.30 Definitions
EMERGENCY
945.40 Definition of Admitted Assets for Insurance Companies
EMERGENCY
945.50 Definition of Admitted Assets for Health Maintenance Organization
EMERGENCY

AUTHORITY: Implementing Section 136 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401] and implementing Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] (see P.A. 91-549, effective August 14, 1999).

SOURCE: Emergency rules adopted at 24 Ill. Reg. 2480, effective January 28, 2000, for a maximum of 150 days.

Section 945.10 Purpose
EMERGENCY

This Part sets forth clarification of the definition of "admitted assets" as defined by Section 3.1 of the Illinois Insurance Code [215 ILCS 5/3.1] and Section 1-3 of the Health Maintenance Organization Act [215 ILCS 125/1-3] (see P.A. 91-549, effective August 14, 1999).

Section 945.20 Applicability
EMERGENCY

This Part applies to any company as defined by Section 2 of the Illinois Insurance Code [215 ILCS 5/2] or any Health Maintenance Organization defined by Section 1-2 of the Health Maintenance Organization Act [215 ILCS 125/2-1] or any person, company or organization required to file an annual statement pursuant to Section 136 of the Illinois Insurance Code [215 ILCS 5/136] or Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7] for financial statements filed with the Department covering any period of time ending on, or before December 31, 2000. For any reporting period commencing on, or after January 1, 2001, "admitted assets" shall be defined and determined in accordance with the Accounting Practices and Procedures Manual adopted by

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

the National Association of Insurance Commissioners, effective January 1, 2001.

Section 945.30 Definitions
EMERGENCY

Except as stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this Part shall be the same as those used in the Illinois Insurance Code or in any Acts in Chapter 215 of the Illinois Compiled Statutes.

Act means the Health Maintenance Organization Act [215 ILCS 125].

Code means the Illinois Insurance Code [215 ILCS 5].

Section 945.40 Definition of Admitted Assets for Insurance Companies
EMERGENCY

Admitted Assets includes the investments authorized or permitted by the Code, exclusive of Section 136 of the Code [215 ILCS 5/136], the credit for reinsurance allowed by the Code, and the following:

a) Petty cash and other cash funds in the company's principal or any official branch office and under the control of the company.

b) Immediately withdrawable funds on deposit in demand accounts, in a bank or trust company as defined in Section 126.2MMM(1) of the Code [215 ILCS 5/126.2MMM(1)] or like funds actually in the principal or any official branch office at statement date, and, in transit to such bank or trust company with authentic deposit credit given prior to the close of business on the fifth bank working day following the statement date.

c) The amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if qualifying under the provisions of this Section prior to the suspension of such bank or trust company.

d) Bills and accounts receivable collateralized by securities of the kind in which the company is authorized to invest.

e) Bills receivable not past due covering uncollected premiums taken by a company in the transaction of business described in Section 4, Class 3 of the Code [215 ILCS 5/4], in an amount not to exceed the unearned premium reserve liability calculated on each respective policy.

f) For in force insurance coverages written by fire, casualty, and reciprocal companies, excluding group accident and health business, premium deposits, gross premiums, and agents' balances (net of related commissions) not more than 90 days past due; installments booked but deferred and not yet due (net of related commissions), provided that all amounts having become due from the insured are not more than 90 days past due; and audit and retrospective premium to the extent permitted to be admitted pursuant to the Annual Statement Instructions and the Accounting Practices and Procedures Manual for Property and Casualty Insurers published by the National Association of Insurance

Commissioners, unless the Director prescribes otherwise. However, audit and retrospective premiums that represent anticipated additional premiums on policies for which the policy period has not yet expired may not be admitted.

g) Net amount of uncollected premiums on group life and group accident and health policies, not more than 90 days past due.

h) Due and uncollected accident and health premiums on in force individual policies, on insurance written by companies pursuant to Section 4, Class 1 of the Code [215 ILCS 5/4], less commissions due thereon to agents; not exceeding in the aggregate the premium reserve liability computed on such business.

i) Premium notes, policy loans and liens, and the net amount of uncollected and deferred premiums on individual life insurance policies, not in excess of the liability for the legal reserves specified in Section 223 or Section 281 of the Code [215 ILCS 5/223 or 281] on such individual life insurance policies.

j) Premium and assessment notes, certificate loans and liens, and the gross amount less loading, of premiums or assessments actually collected by subordinate lodges not yet turned over to the Supreme Lodge on individual life insurance certificates not in excess of the liability for the legal reserves specified in Section 297.1 or Section 305.1 of the Code [215 ILCS 5/297.1 or 305.1] on such individual life insurance certificates.

k) Mortuary assessments due and unpaid on last call made within 60 days, on insurance in force and for which notices have been issued, not in excess of the liability for the unpaid claims which are to be paid by the proceeds.

l) Amounts fairly estimated as recoverable from advances made on contracts under surety bonds.

m) Amounts receivable from insurance companies authorized to do business in this State and from associations or bureaus owned or controlled by 5 or more separate and nonaffiliated, by ownership or management, insurance companies of which a majority thereof are authorized to transact business in this State. The amount of those receivables allowed as admitted assets may not exceed the lesser of 5% of the company's total admitted assets or 10% of the company's surplus as regards policyholders. Amounts receivable from insurance companies or associations or bureaus not meeting the preceding standards of this Part if collateralized in the manner prescribed by Section 173.1 of the Code [215 ILCS 5/173.1].

n) Tax refunds due from the United States or any state, the Government of Canada or any province, or the Commonwealth of Puerto Rico or amounts due to a subsidiary from a parent under a tax allocation agreement that conforms with rules adopted by the Director.

o) The interest accrued on mortgage loans conforming to the Code, not exceeding an aggregate amount on an individual loan of one year's total due and accrued interest.

p) The rents accrued and owing to the company on real and personal

property, directly or beneficially owned, not exceeding on each individual property the amount of one year's total due and accrued rent.

q) Interest or rents accrued on conditional sales agreements, security interests, chattel mortgages and real or personal property under lease to other corporations, all conforming to the Code, and not exceeding on any individual investment, the amount of one year's total due and accrued interest or rent.

r) The fixed and required interest due and accrued on bonds and other like evidences of indebtedness, conforming to the Code, and not in default.

s) Dividends receivable on shares of stock conforming to the Code; provided that the market price taken for valuation purposes does not include the value of the dividend.

t) The interest or dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations.

u) Interest accrued on secured loans conforming to the Code, not exceeding the amount of one year's interest on any loan.

v) Interest accrued on tax anticipation warrants.

w) The value of electronic computer or data processing machines or systems purchased for use in connection with the business of the company, if such machines or systems whenever purchased have an aggregate original cost to the company of at least $75,000. The amortized value of such machines or systems at the end of any calendar year shall not be greater than the original purchase price less 10% for each completed year, or pro rata portion for any fraction thereof, after such purchase, with the total admissible value at any statement date to be limited to an amount not exceeding 2% of the company's admitted assets at such statement date.

x) Amounts, other than premium, receivable from affiliates, not outstanding for more than 3 months, and arising under, management contracts or service agreements which meet the requirements of Section 141.1 of the Code [215 ILCS 5/141.1] to the extent that the affiliate has liquid assets sufficient to pay the balance. The amount of those receivables included in admitted assets may not exceed the lesser of 5% of the company's admitted assets or 10% of the company's surplus as regards policyholders. For purposes of this subsection (x), "affiliate" has the meaning given that term in Section 131.1 of the Code [215 ILCS 5/131.1].

y) Property and liability guaranty fund or guaranty association assessments paid in any state, but only to the extent it is probable the company will be able to offset those assessments against present or future premium taxes or income taxes payable in the state in which the assessments were paid. The amount of those assessments allowed as admitted assets may not exceed the lesser of 5% of the company's total admitted assets or 10% of the company's surplus as regards policyholders. The Director may disallow any such assessment as an

admitted asset to the extent he determines a company is unlikely to realize a present or future premium tax or income tax offset as a result of the assessment.

Section 945.50 Definition of Admitted Assets for Health Maintenance Organization
EMERGENCY

Admitted Assets includes the investments authorized or permitted by Section 3-1 of the Act [215 ILCS 125/3-1], exclusive of Section 2-7 of the Act [215 ILCS 125/2-7], and the following:

a) Petty cash and other cash funds in the organization's principal or any official branch office and under the control of the organization.

b) Immediately withdrawable funds on deposit in demand accounts, in a bank or trust company as defined in Section 3-1(g)(3) of the Act [215 ILCS 125/3-1(g)(3)] or like funds actually in the principal or any official branch office at statement date, and, in transit to such bank or trust company with authentic deposit credit given prior to the close of business on the fifth bank working day following the statement date.

c) The amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if qualifying under the provisions of this Section prior to the suspension of such bank or trust company.

d) Bills and accounts receivable collateralized by securities of the kind in which the organization is authorized to invest.

e) Premiums receivable from groups or individuals which are not more than 60 days past due. Premiums receivable from the United States, any state thereof or any political subdivision of either which is not more than 90 days past due.

f) Amounts due under insurance policies or reinsurance arrangements from insurance companies authorized to do business in this State.

g) Tax refunds due from the United States, any state or any political subdivision thereof.

h) The interest accrued on mortgage loans conforming to Section 3-1 of the Act, not exceeding in aggregate amount on an individual loan of one year's total due and accrued interest.

i) The rents accrued and owing to the organization on real and personal property, directly or beneficially owned, not exceeding on each individual property the amount of one year's total due and accrued rent.

j) Interest or rents accrued on conditional sales agreements, security interests, chattel mortgages and real or personal property under lease to other corporations, all conforming to Section 3-1 of the Act, and not exceeding on any individual investment, the amount of one year's total due and accrued interest or rent.

k) The fixed and required interest due and accrued on bonds and other like evidences of indebtedness, conforming to Section 3-1 of the Act, and not in default.

l) Dividends receivable on shares of stock conforming to Section 3-1 of the Act; provided that the market price taken for valuation purposes does not include the value of the dividend.

m) The interest or dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations.

n) Interest accrued on secured loans conforming to the Act, not exceeding the amount of one year's interest on any loan.

o) Interest accrued on tax anticipation warrants.

p) The amortized value of electronic computer or data processing machines or systems purchased for use in connection with the business of the organization, including software purchased and developed specifically for the organization's use and purposes.

q) The cost of furniture, equipment and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used in the delivery of health care and under the control of the organization, provided such assets do not exceed 30% of admitted assets.

r) Amounts due from affiliates pursuant to management contracts or service agreements which meet the requirements of Section 141.1 of the Code [215 ILCS 5/141.1] to the extent that the affiliate has liquid assets with which to pay the balance and maintain its accounts on a current basis; provided that the aggregate amount due from affiliates may not exceed the lesser of 10% of the organization's admitted assets or 25% of the organization's net worth as defined in Section 3-1 of the Act. Any amount outstanding more than 3 months shall be deemed not current. For purpose of this subsection (r), "affiliates" are as defined in Section 131.1 of the Code [215 ILCS 5/131.1].

s) Intangible assets, including, but not limited to, organization goodwill and purchased goodwill, to the extent reported in the most recent annual or quarterly financial statement filed with the Director preceding July 20, 1987. However, such assets shall be amortized, by the straight-line method, to a value of zero no later than December 31, 1990; provided, however, that no organization shall be required pursuant to the foregoing provision to amortize such assets in an amount greater than $300,000 in any one year, and in cases where amortization of such assets by December 31, 1990 would otherwise require amortization of an annual amount in excess of $300,000, the organization shall be required only to amortize such assets at a rate of $300,000 per year until all such assets have been amortized to a value of zero, unless the continuation of the current amortization schedule would result in an earlier zero value, in which case the current amortization schedule shall be applied.

t) Amounts due from patients or enrollees for health care services rendered which are not more than 60 days past due.

u) Amounts advanced to providers under contract to the organization for services to be rendered to enrollees pursuant to the contract. Amounts advanced must be for a period of not more than 3 months and

DEPARTMENT OF INSURANCE

NOTICE OF EMERGENCY RULES

must be based on historical or estimated utilization patterns with the provider and must be reconciled against actual incurred claims at least semi-annually. Amounts due in the aggregate may not exceed 50% of the organization's net worth as defined in Section 3-1 of the Act. Amounts due from a single provider may not exceed the lesser of 5% of the organization's admitted assets or 10% of the organization's net worth.

v) Cost reimbursement due from the Health Care Financing Administration for furnishing covered medicare services to medicare enrollees which are not more than twelve months past due.

w) Prepaid rent or lease payments no greater than 3 months in advance, on real property used for the administration of the organization's business or for the delivery of medical care.

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

1) Heading of the Part: Special Waste Hauling

2) Code Citation: 35 Ill. Adm. Code 809

3)

Section Numbers:	Proposed Action:
809.211	Amended
809.302	Amended

4) Date Notice of Proposed Amendments Published in the Illinois Register: February 16, 1999 at 23 Ill. Reg. 2489

5) Reason for the Withdrawal The Board initially held two public hearings in this matter on February 25, 1999, in Chicago, and on March 1, 1999, in Springfield. At the request of the National Oil Recyclers Association, the Board held a third hearing on August 23, 1999, in Chicago. The Board received 21 written public comments and six exhibits.

As a result of the public comments received, the Board has found that additional State regulation of used oil management and transportation is technically feasible yet not economically reasonable when taking into account existing federal and State regulatory systems. The Board found that existing federal and State regulatory programs governing the used oil industry are sufficiently protective, at this time, absent a State permitting scheme. The Board further found that these existing laws and rules have improved the management of used oil and have led to advances in safety. The Board found that the record does not demonstrate that the proposed amendments will increase compliance with existing laws and rules. Accordingly, the Board dismissed this proposed rulemaking docket and withdraws these amendments from first notice.

Questions regarding this matter may be referred to:

Joel Sternstein
Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago, Il 60601
312/814-3665

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

1) Heading of the Part: Solid Waste

2) Code Citation: 35 Ill. Adm. Code 807

3) Section Numbers: Proposed Action:
807.105 Amended

4) Date Notice of Proposed Amendments Published in the Illinois Register: February 16, 1999 at 23 Ill. Reg. 2483

5) Reason for the Withdrawal:

The Board initially held two public hearings in this matter on February 25, 1999, in Chicago, and on March 1, 1999, in Springfield. At the request of the National Oil Recyclers Association, the Board held a third hearing on August 23, 1999, in Chicago. The Board received 21 written public comments and six exhibits.

As a result of the public comments received, the Board has found that additional State regulation of used oil management and transportation is technically feasible yet not economically reasonable when taking into account existing federal and State regulatory systems. The Board found that existing federal and State regulatory programs governing the used oil industry are sufficiently protective, at this time, absent a State permitting scheme. The Board further found that these existing laws and rules have improved the management of used oil and have led to advances in safety. The Board found that the record does not demonstrate that the proposed amendments will increase compliance with existing laws and rules. Accordingly, the Board dismissed this proposed rulemaking docket and withdraws these amendments from first notice.

Questions regarding this matter may be referred to:

Joel Sternstein
Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago, IL. 60601
312/814-3665

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

a) Part (Heading and Code Citation): Extensions of Jurisdiction, 80 Ill. Adm. Code 305

1) Rulemaking:

A) Description: To make technical and clarifying changes.

B) Statutory Authority: 20 ILCS 415/4b

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citation): State Employee Benefit Administration, 80 Ill. Adm. Code 330

1) Rulemaking:

A) Description: Update language to reflect Finance Act changes regarding payment for unused sick leave days.

B) Statutory Authority: 30 ILCS 105/14a

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Winter 2000

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation): Travel, 80 Ill. Adm. Code 2800

1) Rulemaking:

A) Description: Technical and clarifying changes will be made.

B) Statutory Authority: 30 ILCS 105/12-1, 12-2, 12-3

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation): Prompt Payment, 74 Ill. Adm. Code 900

1) Rulemaking:

A) Description: Section 900.70(c) will be amended to reflect the most recent language and dollar threshold for execution of contracts.

B) Statutory Authority: 30 ILCS 540

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Winter 2000

E) Effect on small businesses, small municipalities or not for

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

profit corporations: None

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Back Wage Claim Administration, 80 Ill. Adm. Code 331

1) Rulemaking:

A) Description: Will make changes to better reflect current policy.

B) Statutory Authority: 20 ILCS 405/64.1(m)

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Winter 2000

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): The Travel Regulation Council, 80 Ill. Adm. Code 3000

1) Rulemaking:

A) Description: Technical and clarifying changes will be made.

B) Statutory Authority: 30 ILCS 105/12-1, 12-2, 12-3

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Business Enterprise Program, 44 Ill. Adm. Code 10

1) Rulemaking:

A) Description: Will make technical changes and changes to better reflect current policy.

B) Statutory Authority: 30 ILCS 575

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Changes will affect internal administration of the Business Enterprise Program. Certain changes might impact small and not-for-profit corporations that qualify for the Business Enterprise Program but those changes have not been determined.

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

h) Part (Heading and Code Citation): Standard Procurement, 44 Ill. Adm. Code 1

1) Rulemaking:

A) Description: Will make technical changes and changes to better reflect current policy.

B) Statutory Authority: 30 ILCS 500

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Will make technical corrections and will attempt to simplify and better reflect policy.

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Access to Information, 2 Ill. Adm. Code 751

1) Rulemaking:

A) Description: Makes technical and clarifying changes. Amends schedule of fees.

B) Statutory Authority: 5 ILCS 140/1 et seq.

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Spring 2000

E) Effect on small businesses, small municipalities or not for profit corporations: Will establish fee schedule for requestors of public information.

F) Agency contact person for information:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 2000 REGULATORY AGENDA

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

j) Part (Heading and Code Citation): State Vehicles and Garage, 44 Ill. Adm. Code 5040

1) Rulemaking:

A) Description: Establishes permitted and prohibited uses of State vehicles.

B) Statutory Authority: 20 ILCS 405/67, et seq.

C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

D) Date agency anticipates First Notice: Summer 2000

E) Effect on small businesses, small municipalities or not for profit corporations: May establish by rule that State contractors are permitted users of State vehicles under certain circumstances.

F) Agency contact person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

JANUARY 2000 REGULATORY AGENDA

a) Part: Welfare-to-Work Block Grant Program, 56 Ill. Adm. Code 2665

1) Rulemaking:

A) Description: These amendments will implement the Federal Welfare-to-Work and Child Support Amendments of 1999 as part of the Consolidated Appropriations Act for federal fiscal year 2000. Amending this Part will consist of a number of program changes, including Required Beneficiaries/General Eligibility, Allowable Activities, Reporting Changes, Grantees? Access to Information about Potential WtW Participants, and Performance Bonus for Formula Grants.

B) Statutory Authority: Implementing Section 46.19 of the Civil Administrative Code of Illinois [ILCS 605/46.19] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: March 2000

E) Effect on small businesses, small municipalities, or not-for-profit corporations: There is no anticipated effect on small businesses, small municipalities, or not-for-profit corporations.

F) Agency contact person for information:
Raya Bogard
Administrative Code Rules Manager
Illinois Department of Commerce and
Community Affairs
620 East Adams
Springfield, Illinois 62701
(217) 785-6285

G) Related rulemakings and other pertinent information:

b) Part: To be assigned

1) Rulemaking:

A) Description: Implementing the federal Workforce Investment Act. This a new rule implementing a new federal law that goes into effect on July 1, 2000

B) Statutory Authority: Implementing Section 46.41 of the Civil Administrative Code of Illinois [ILCS 605/46.41] and authorized

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

JANUARY 2000 REGULATORY AGENDA

by Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.42].

C) Scheduled meeting/hearing date: To be announced

D) Date agency anticipates First Notice: June 2000

E) Effect on small businesses, small municipalities, or not-for-profit corporations: There is no anticipated effect on small businesses, small municipalities, or not-for-profit corporations.

F) Agency contact person for information:
Raya Bogard
Administrative Code Rules Manager
Address: Illinois Department of Commerce and Community Affairs
620 East Adams
Springfield, Illinois 62701
(217) 785-6285

G) Related rulemakings and other pertinent information:

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 25, 2000 through January 31, 2000 and have been scheduled for review by the Committee at its February 8, 2000 or March 7, 2000 meetings in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/9/00	Department of Natural Resources, General Definitions (62 Ill Adm Code 1701)	8/27/99 23 Ill Reg 9998	2/8/00
3/9/00	Department of Natural Resources, Surface Mining Permit Application-Minimum Require- ments for Reclamation and Operation Plan (62 Ill Adm Code 1780)	8/27/99 23 Ill Reg 10082	2/8/00
3/9/00	Department of Natural Resources, Underground Mining Permit Application-Minimum Require- ments for Reclamation and Operation Plan (62 Ill Adm Code 1784)	8/27/99 23 Ill Reg 10088	2/8/00
3/9/00	Department of Natural Resources, Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations (62 Ill Adm Code 1800)	11/5/99 23 Ill Reg 13342	2/8/00
3/9/00	epartment of Natural Resources, Permanent Program Performance Standards-Surface Mining Activities (62 Ill Adm Code 1816)	8/27/99 23 Ill Reg 10056	2/8/00
3/9/00	Department of Natural Resources, Permanent Program Performance Standards-Underground Mining Operations (62 Ill Adm Code 1817)	8/27/99 23 Ill Reg 10027	2/8/00
3/9/00	Department of Natural Resources, Special Program Performance Standards-Operations on Prime Farmland (62 Ill Adm Code 1823)	8/27/99 23 Ill Reg 10078	2/8/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

3/9/00	Department of Natural Resources, Department Inspections (62 Ill Adm Code 1840)	8/27/99 23 Ill Reg 9991	2/8/00
3/9/00	Department of Natural Resources, Adminis- trative and Judicial Review (62 Ill Adm Code 1847)	11/5/99 23 Ill Reg 13336	2/8/00
3/9/00	Department of Natural Resources, Sport Fishing Regulations for the Waters of Illinois (17 Ill Adm Code 810)	12/10/99 23 Ill Reg 14204	2/8/00
3/9/00	Department of Natural Resources, Operation of Watercraft Carrying Passengers for Hire on Illinois Waters (17 Ill Adm Code 2080)	12/10/99 23 Ill Reg 14198	2/8/00
3/11/00	State Board of Education, School Construction Program (23 Ill Adm Code 151)	11/5/99 23 Ill Reg 13295	3/7/00
3/11/00	Department of Public Health, Hospital Licensing Requirements (77 Ill Adm Code 250)	10/15/99 23 Ill Reg 12579	3/7/00
3/15/00	Illinois Health Facilities Planning Board, Narrative and Planning Policies (77 Ill Adm Code 1100)	10/22/99 23 Ill Reg 12997	3/7/00
3/15/00	Illinois Health Facilities Planning Board, Processing, Classification Policies and Review Criteria (77 Ill Adm Code 1110)	10/22/99 23 Ill Reg 13003	3/7/00
3/15/00	Illinois Health Facilities Planning Board, Health Facilities Planning, Financial and Economic Feasibility Review (77 Ill Adm Code 1120)	10/22/99 23 Ill Reg 12936	3/7/00
3/15/00	Illinois Health Facilities Planning Board, Health Facilities Planning Procedural Rules (77 Ill Adm Code 1130)	10/22/99 23 Ill Reg 12957	3/7/00
3/15/00	Illinois Health Facilities Planning Board, Public Hearing and Comment Procedures (77 Ill Adm Code 1140)	10/22/99 23 Ill Reg 13039	3/7/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

3/15/00	Illinois Health Facilities Planning Board, Repeal of Public Notice of Opportunity for Public Hearing and Public Hearing Procedures (77 Ill Adm Code 1200)	10/22/99 23 Ill Reg 13030	3/7/00

PROCLAMATIONS

2000-16
ADLAI E. STEVENSON DAY

WHEREAS, Adlai Ewing Stevenson II, born February 5, 1900, attended public schools in Bloomington. After serving in the Navy as an apprentice seaman in World War I, he graduated from Princeton University and Northwestern University Law School; and

WHEREAS, Mr. Stevenson was member of a family long prominent in public life, became the 31st Governor of Illinois January 10, 1949, with the largest ballot majority in the history of the State; and

WHEREAS, Governor Stevenson's public career has included major federal administrative and diplomatic assignments. He has written and lectured extensively, particularly in the field of foreign affairs; and

WHEREAS, he served as special counsel to the Agricultural Adjustment Administration in 1933 and 1934. For the first three years of the war, he was special assistant to Secretary of the Navy Frank Knox. He headed the first economic mission to Italy in 1943, and served on an Air Forces mission to the European theatre in 1944. As assistant to the Secretary of State, he was a member of the U.S. Delegation to the San Francisco Conference in 1945 and later was U.S. Minister in London and head of the American Delegation to the Preparatory Commission of the United Nations. He was a delegate to several UN assemblies ; and

WHEREAS, Governor Stevenson practiced law and remained active in civic affairs in Illinois during intervals between his federal service. He served as director or trustee of many business corporations, charitable and educational organizations. He was the first chairman of the civil rights committee of the Chicago Bar Association; and

WHEREAS, on February 4, 2000, Stevenson High will honor the 100th birthday of its namesake, Adlai E. Stevenson II, with a special celebration featuring family members, former colleagues and acquaintances;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 5, 2000, as ADLAI E. STEVENSON DAY in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-17
DAY FOR DISABLED PERSONS

WHEREAS, on October 14, 1992, the General Assembly of the United Nations agreed unanimously to recognize the more than 500 million disabled persons of the world, by naming December 3 of each year, the International Day for Disabled Persons; and

WHEREAS, since that time, the People to People Committee on Disability, an organization first inspired and created by President Eisenhower in 1956, has gained steady growth in the recognition of the International Day for Disabled Persons; and

WHEREAS, an average of one in ten persons in the world today is either mentally or physically disabled; and

WHEREAS, people with severe, lifelong disabilities live, work, play and worship in communities and are productive citizens, neighbors and family members;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 3, 1999, as DAY FOR DISABLED PERSONS in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-18
GENE BULDAK DAY

WHEREAS, on December 1, 1999, Eugene Buldak, Director of the Kane County Adult Corrections Facility will say "good-bye" after 25 years of dedicated service; and

WHEREAS, in the start of his career in 1962, Eugene began work for the Will County Correctional Study as a research assistant. He later held on internship at Joliet Diagnostic Center from 1963 to 1964; and

WHEREAS, Gene furthered his career as a full-time employee with the Illinois Department of Corrections as Classifying Sociologist in 1964 and continued his position until 1971. At that time, he was promoted to Supervising Sociologist in 1971 and carried out his position until 1972; and

WHEREAS, from 1972 to 1973 Eugene performed his duties as Assistant Superintendent of Programs and then transferred to the Stateville Correctional Center were he held a position as Assistant Superintendent of Security until the year of 1974; and

WHEREAS, for 26 years of Gene's, life he was married to his beloved wife Marion, until her devastating death from cancer in 1997. Gene has two grown daughters, Tracy and Melissa; and

WHEREAS, for the last 25 years, Gene has devoted his service to the Kane County Adult Corrections Center where he has faithfully served as Director of Corrections until December 1, 1999; and

WHEREAS, on this date of January 18, 2000, we celebrate the works of Eugene "Gene" Buldak as he looks forward to a happy retirement;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 18, 2000, as GENE BULDAK DAY in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-19
JOBS FOR ILLINOIS GRADUATES DAY

WHEREAS, Jobs for Illinois Graduates (JILG) is based on the largest model of a school to work transition program for students; and

WHEREAS, the model includes students committed to learning employability skills and development skills while they are in high school; and

WHEREAS, the model includes students committed to graduating from high school; and

WHEREAS, the model includes students committed to entering the workforce or military, or continuing their education or training after high school graduation; and

WHEREAS, students in the Jobs for Illinois Graduates program have consistently met standards of a 90 percent graduation rate and an 80 percent positive outcome rate; and

WHEREAS, the State of Illinois has successfully implemented the model over

the past three and a half years; and

WHEREAS, the current JILG students want to make all Illinois students aware of the opportunities available to them through Jobs for Illinois Graduates; and

WHEREAS, JILG students want to make all citizens aware of the value of the Jobs for Illinois Graduates program to the State of Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim January 31, 2000, as JOBS FOR ILLINOIS GRADUATES DAY in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-20
LEAGUE OF WOMEN VOTERS WEEK

WHEREAS, the League of Women Voters is a unique multi-issue organization established to promote political responsibility through informed and active participation of citizens in government; and

WHEREAS, the membership of the League of Women Voters of Illinois promotes voter education through voter registration opportunities, debates and published voters guides; and

WHEREAS, for more than 80 years, League expertise in the areas of government, taxes, social services, education, natural resources and international relations has provided significant contributions to citizen education through publications, conferences and the media; and

WHEREAS, the membership of the League of Women Voters at the local level throughout the State of Illinois will continue its watchdog efforts over government activities and programs;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 13-20, 2000, as LEAGUE OF WOMEN VOTERS WEEK in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-21
PARKS AND RECREATION MONTH

WHEREAS, Illinois has long been recognized as a State with a strong commitment and dedication to providing park and recreational opportunities for all its citizens; and

WHEREAS, Illinois park districts, forest preserves, conservation district and recreation agencies are the backbone of this outstanding park system which has been nationally recognized for its excellence; and

WHEREAS, it is the goal of this state to make sure that all Illinoisans are able to pursue recreational opportunities and enjoy the beauty of park land in proximity to where they work and live; and

WHEREAS, the benefits of these activities are health, vitality, longevity, productivity and the development of social, athletic and creative skills; and

WHEREAS, Illinois is recognized as a great place to work and play because of the emphasis and priority we place on creating park and recreational opportunities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim June 2000 as PARKS AND RECREATION MONTH in Illinois.

Issued by the Governor January 13, 2000.

Filed by the Secretary of State January 24, 2000.

2000-22
FFA WEEK

WHEREAS, the agriculture of Illinois is vital to the prosperity and future progress of our State; and

WHEREAS, the future of agriculture is dependent upon the productive efforts of those engaged in the challenging and dynamic industry of agriculture; and

WHEREAS, the Future Farmers of America prepares students for careers in the agriculture industry by developing their potential for premier leadership, personal growth, and career success through agricultural education; and

WHEREAS, the Illinois FFA Theme is "Taking the Challenge," signifying the many obstacles facing today's youth and the positive impact the Illinois Association FFA has on the lives of 15,000 members; and

WHEREAS, millions of Americans, both rural and urban, have benefited from the efforts of the FFA and depend on a strong and productive agricultural industry; and

WHEREAS, the week of February 19-26 has been set as National FFA throughout the United States, Guam, Puerto Rico, and the Virgin Islands;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 19-26, 2000, as FFA WEEK in Illinois.

Issued by the Governor January 14, 2000.

Filed by the Secretary of State January 24, 2000.

2000-23
FINANCIAL AID/ADMISSION AWARENESS MONTH

WHEREAS, the State of Illinois has a strong commitment to the intellectual growth and career development of all its citizens; and

WHEREAS, the State of Illinois has fostered the development of an impressive complement of public and private programs of higher education; and

WHEREAS, a network of student financial assistance programs consisting of grants, scholarships, loans, and work-study provides access to these educational opportunities for thousands of citizens each year; and

WHEREAS, the Illinois Student Assistance Commission's (ISAC) responsibilities include administering grant, scholarship, and loan programs and providing programs and initiatives to encourage families to begin saving early for postsecondary education; and

WHEREAS, the Illinois Student Assistance Commission, the Illinois Association of Student Financial Aid Administrators, Inc., and the Illinois Association for College Admission Counseling are conducting a series of informational programs to boost parents and student awareness about planning for a postsecondary education, and the available college admission and financial aid resources; and

WHEREAS, ISAC, the state's student financial aid community and the state's college admission community will assist families with their Free Application for Federal Student Aid by providing 53 FAFSA Completion Workshops as a public service at sites throughout the State of Illinois during the month of February, and provide a wealth of college planning information on a web site (www.faam.org);

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

February 2000 as FINANCIAL AID/ADMISSION AWARENESS MONTH in Illinois.

Issued by the Governor January 14, 2000.

Filed by the Secretary of State January 24, 2000.

2000-24
FOREIGN LANGUAGE WEEK

WHEREAS, Alpha Mu Gamma was founded at Los Angeles City College in 1931 presently there are more than 300 Alpha Mu Gamma chapters at colleges and universities across the nation; and

WHEREAS, at the behest of Alpha Mu Gamma, National Foreign Language Week was first proclaimed by President Dwight D. Eisenhower in 1957 to make Americans aware of the importance of foreign language study and the need for international understanding; and

WHEREAS, each president and all the state governors since then have endorsed National Foreign Language Week, either by letter or proclamation; and

WHEREAS, its goals are to recognize achievement in the field of foreign language study and to encourage interest in the study of foreign languages, literatures and cultures;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 6-12, 2000, as FOREIGN LANGUAGE WEEK in Illinois.

Issued by the Governor January 14, 2000.

Filed by the Secretary of State January 24, 2000.

2000-25
GROUNDHOG JOB SHADOW DAY

WHEREAS, the State of Illinois recognizes and celebrates the importance of students experiencing the workplace firsthand through mentoring and job shadowing programs; and

WHEREAS, through shadowing experiences, students learn firsthand how the skills they are learning in school will help them excel in their future workplaces; and

WHEREAS, private industry also recognizes the importance of partnerships between schools and businesses to ensure the economic prosperity of Illinois today and the ability of our students to participate in the global workplaces of tomorrow; and

WHEREAS, America's Promise has joined with the National School-to-Work Opportunities Office, Junior Achievement, and the American Society of Association Executives to spearhead the national effort to provide students with the opportunity to learn about and experience a wide range of possible career choices; and

WHEREAS, it is essential that the partnerships between government, family, business, the community, and educational leaders remain strong in order to provide each student the ability to ensure a lifetime of learning;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim February 2, 2000, as GROUNDHOG JOB SHADOW DAY in Illinois.

Issued by the Governor January 14, 2000.

Filed by the Secretary of State January 24, 2000.

2000-26
AMERICAN RENTAL ASSOCIATION MONTH

WHEREAS, the American Rental Association (A.R.A.), and thousands of rental centers across the U.S. and Canada have designated April as National Rental Month; and

WHEREAS, the main goal of National Rental Month is to give members a platform to create excitement and educate communities about the benefits of equipment rental; and

WHEREAS, rental customers can be anyone from construction companies to do-it-yourselfers to caterers, all of whom find renting a valuable alternative to buying; and

WHEREAS, the A.R.A. has a unique opportunity to help make Illinois one of the leading advocates of National Rental Month; and

WHEREAS, for the nearly 50 percent of the public who do not currently consider renting, seminars, open houses, workshops, and special pricing are all possible incentives that may spark a first-time rental experience;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2000 as AMERICAN RENTAL ASSOCIATION MONTH in Illinois.

Issued by the Governor January 19, 2000.

Filed by the Secretary of State January 24, 2000.

Rules acted upon during the calender quarter from Issue 1 through Issue 16 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

*Notice for Public Comment

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